

CITY CHARTERS

Colorado Springs	1909
Dallas	1907
Dallas (with Amendments)	1909
Denver	1904
Grand Junction	1909
Grand Rapids	1904
Houston	1905
Memphis	1909
Mobile	1906
Mount Vernon	1910
Palo Alto	1911
San Antonio	1907
Tulsa	1909

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THE CHARTER OF THE CITY OF COLORADO SPRINGS

FRAMED BY THE CHARTER CONVENTION, MARCH 20, 1909

BY AUTHORITY OF ARTICLE XX. OF THE CONSTITUTION

TO BE VOTED ON MAY 11, 1909

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THE OUT WEST PRINTING AND STATIONERY CO., COLORADO SPRINGS

OFFICERS AND MEMBERS OF
THE CHARTER CONVENTION OF THE CITY OF COLORADO SPRINGS

OFFICERS AND EMPLOYEES

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VICE-PRESIDENT,	JAMES J. EUBANK
SECRETARY,	EDWARD C. SHARER
ASSISTANT SECRETARY,	GEORGE M. IRWIN
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HENRY C. HALL	

PREFATORY SYNOPSIS.

The Charter Convention, elected on January 19, 1909, submits to the voters for approval, a draft of the Charter for the City of Colorado Springs.

The Charter provides that the legislative, executive and judicial powers of the City shall extend to all matters of local and municipal government. The City shall have all the powers, privileges and functions which are granted by the constitution or laws of this State to any city of the first class. The powers of the City are vested in the elective officers, the Mayor and four Councilmen, elected at large for four year terms and subject to recall.

The legislative powers of the City are vested in the Council, except as reserved to the people by the provisions as to initiative and referendum.

The executive and administrative power, authority and duty of the City are distributed among five departments:

Department of Water and Water Works,
Department of Finance,
Department of Public Safety,
Department of Public Works and Property,
Department of Public Health and Sanitation.

The Mayor is to be the Commissioner of Water and Water Works. The Council designates by majority vote one Councilman to be Commissioner of each of the other departments.

The Mayor is to be the chief executive officer of the City and upon the recommendation of the Commissioner of the appropriate department, appoints the heads of such department and all other employes in the service of the City. He is allowed to suspend or remove any officer or employe when, in his judgment, the public interests demand.

The proposed Charter preserves every valuable feature of the laws of the State of Colorado, and has only introduced such new methods or machinery as after careful consideration were deemed advisable and necessary in the assumption of home rule.

A complete, non-partisan system for the election of municipal officers has been provided.

Adequate provision for Civil Service has been made.

Special attention is called to the provisions made for the administration of the Water Department, and the refunding of outstanding water bonds.

The rights of the City are carefully guarded in the matter of public franchises and utilities. The Charter retains in the people the right to control public utilities, and requires that provision shall be made in every franchise hereafter granted permitting the City to purchase at a fair valuation such public utilities whenever the people shall deem it best so to do and vote in favor thereof.

The contents are arranged as follows:

Article I.	Name, Boundaries, Powers, Rights and Liabilities.
Article II.	Elective Officers.
Article III.	The Council.
Article IV.	The Mayor.
Article V.	Executive and Administrative Departments.
Article VI.	Department of Water and Water Works.
Article VII.	Department of Finance.
Article VIII.	Department of Public Safety.
Article IX.	Department of Public Works and Property.
Article X.	Department of Public Health and Sanitation.
Article XI.	Commissions and Boards.
Article XII.	Franchises and Public Utilities.
Article XIII.	Elections.
Article XIV.	Recall of Elective Officers.
Article XV.	The Initiative.
Article XVI.	The Referendum.
Article XVII.	Officers, Employes and Salaries.
Article XVIII.	Civil Service.
Article XIX.	General Provisions.

THE CHARTER OF THE CITY OF COLORADO SPRINGS.

PREAMBLE.

We, the people of the City of Colorado Springs, under the authority of the Constitution of the State of Colorado, do ordain and establish this Charter for the City of Colorado Springs.

ARTICLE I.

NAME, BOUNDARIES, POWERS, RIGHTS AND LIABILITIES.

1. Name—Boundaries.—The municipal corporation now existing and known as the "City of Colorado Springs," shall remain and continue to be a body politic and corporate under the same name and with the same boundaries, with power and authority to change its boundaries in manner authorized by law.

2. Powers—Rights—Liabilities.—(a) By the name of the "City of Colorado Springs," the City shall have perpetual succession, and shall own, possess and hold all property, real and personal, theretofore owned, possessed or held by the said City of Colorado Springs, and shall assume, manage and dispose of all trusts in any way connected therewith;

(b) Shall succeed to all the rights and liabilities, and shall acquire all benefits, and shall assume and pay all bonds, obligations and indebtedness of said City of Colorado Springs; by that name may sue and defend, plead and be impleaded, in all courts and places, and in all matters and proceedings; may have and use a common seal and alter the same at pleasure; may purchase, receive, hold and enjoy, or sell and dispose of, real and personal property;

(c) May receive bequests, gifts and donations of all kinds of property, in fee simple, or in trust for public, charitable or other purposes; and do all things and acts necessary to carry out the purpose of such gifts, bequests and donations, with power to manage, sell, lease or otherwise dispose of the same in accordance with the terms of the gift, bequest or donation;

(d) Shall have the power, within or without its territorial limits, to construct, condemn and purchase, purchase, acquire, lease, add to, maintain, conduct and operate, waterworks, light plants, power plants, transportation systems, heating plants, and any other public utilities or works or ways local in use and extent, in whole or in part, and everything required therefor, for the use of said City and the inhabitants thereof, and any such systems, plants or works or ways, or any contracts in relation or connection therewith, that may exist and which said City may desire to purchase, in whole or in part, the

same or any part thereof may be purchased by said City which may enforce such purchase by proceedings at law as in taking land for public use by right of eminent domain, and shall have the power to issue bonds upon the vote of the taxpaying electors, at any special or general election, in any amount necessary to carry out any of said powers or purposes;

(e) The legislative, executive and judicial powers of the City shall extend to all matters of local and municipal government, it being the intent hereof that the specifications of particular powers by any other provision of this Charter, shall never be construed as impairing the effect of the general grant of powers of local government hereby bestowed;

(f) The City shall also have all powers, privileges and functions which, by or pursuant to the Constitution of this State, have been or could be granted to or exercised by any City of the first class;

(g) All powers of the City shall, except as otherwise provided in this Charter, be vested in the elective officers, subject to distribution and delegation of such powers as provided in this Charter or by ordinance.

ARTICLE II.

ELECTIVE OFFICERS.

3. Officers—Terms.—The elective officers of the City shall be a Mayor and four Councilmen, each of whom shall be elected at large by the qualified electors of the City. The term of all elective officers, except as otherwise provided herein, shall commence at 10 o'clock A. M., on the first secular day of May following their election, and, except as otherwise provided herein, shall be for four years and until their successors are elected and qualified; *provided, however*, that of the four Councilmen first elected under this Charter, the term of the two receiving the highest number of votes shall be for four years, and the term of the other two shall be for two years; and *provided, further*, that the terms of the elective officers first elected under this Charter shall commence at 10 o'clock A. M. on the third Tuesday following the first general municipal election held under this Charter and shall end at 10 o'clock A. M. of the first secular day of May following the election of their successors.

4. Qualifications.—No person shall be eligible to the office of Mayor or Councilman unless he be a citizen of the United States, at least twenty-five years of age, and shall have been for five years immediately preceding such election a citizen of the City of Colorado Springs, and for two years immediately preceding his election shall have paid City taxes.

5. Vacancy.—If a vacancy occur in the office of Mayor or Councilman, the Council shall appoint an eligible person to fill such vacancy until the next general municipal election, subject to the provisions of Article XIV. Any vacancy shall be then filled by election for the unexpired term.

Vacancy shall exist when an elective officer fails to qualify for ten days after notice of his election, dies, resigns, is removed from office, removes from the City, absents himself continuously therefrom for more than six months, is convicted of a felony or judicially declared a lunatic as defined by statute.

6. Removal.—In case of misconduct, inability or willful neglect in the performance of the duties of his office, the Mayor or any Councilman may be removed from office by the Council by a vote of four members, but he shall be given an opportunity to be heard in his defense, and shall have the right to appear by counsel and to have process issue to compel the attendance of witnesses who shall be required to give testimony if he so elects. In such case the hearing shall be public and a full and complete statement of the reasons for such removal, if he be removed, together with the findings of fact as made by the Council, shall be filed by the Council with the Clerk, and shall be and become a matter of public record.

ARTICLE III.

THE COUNCIL.

7. Legislative Powers.—All legislative powers of the City shall, except as otherwise provided by this Charter, be vested exclusively in a Council, which shall consist of the Mayor and four Councilmen.

8. President and Vice-President of Council.—The Mayor shall be President of the Council, and, when present, shall preside at all meetings. The Council shall elect one of its number to be Vice-President, who, during the absence or disability of the Mayor, or while any vacancy exists in the office of the Mayor, shall possess all of the powers and perform all of the duties of the Mayor, except that he shall not have any power of removal.

9. Judge of Their Elections.—The Council shall be the judge of the election and qualification of its own members, subject to review by the courts, in case of contest.

10. Restrictions Upon Members of the Council.—No member of the Council shall hold any other public office or employment, compensation for which is paid out of municipal moneys. No person shall be elected or appointed to any office, position or employment, the compensation of which was increased or fixed by the Council while he was a member thereof, until after the expiration of one year from the date when he ceased to be a member of the Council.

11. Rules of the Council.—The Council shall determine its own rules of procedure, may punish its members for disorderly conduct, and may compel the attendance of members.

12. Meetings of the Council.—The Council shall prescribe the time and place of its meetings, and the manner in which special meetings thereof may be called.

The City Clerk shall be the Clerk of the Council, and shall, with the Mayor, sign and attest all ordinances and resolutions.

A majority of the members of the Council shall constitute a quorum to do business, but a less number can adjourn. The Council shall sit with open doors at all legislative sessions, and shall keep a journal of its proceedings, which shall be a public record.

13. Ordinances and Resolutions.—(a) At legislative sessions the Council shall act only by ordinance, resolution or motion.

(b) The ayes and noes shall be taken upon the passage of all ordinances and resolutions and entered upon the journal of its proceedings. Upon the request of any member, the ayes and noes shall be taken and recorded upon any motion. Every member when present must vote, and every ordinance shall require on final passage, the affirmative vote of three members.

(c) No ordinance shall be passed finally on the date it is introduced, except in the case of public emergency, and then only when requested by the Mayor in writing. No ordinance making a grant of any franchise or special privilege shall ever be passed as an emergency measure.

(d) The enacting clause of all ordinances passed by the Council shall be in these words: "Be it Ordained by the City Council of the City of Colorado Springs;"

(e) Every ordinance shall be published once in full in a daily newspaper of the City at least ten days before its final passage.

14. Publication of Ordinance Adopted.—Every ordinance adopted shall be published once in a daily newspaper of the City and shall not take effect until five days after such publication, except emergency ordinances passed as provided in this Article, which shall take effect upon passage and be so published on the following day, subject always to the provisions of Article XVI.

15. Amendment or Repeal.—No ordinance or section thereof shall be amended or repealed except by ordinance adopted in the manner provided in this Charter.

16. Ordinances Granting Franchises.—No proposed ordinance granting any franchise shall be put upon its final passage within sixty days after its introduction, nor until it has been published not less than once a week for six consecutive weeks in two daily newspapers of general circulation published in the City.

17. Record of Ordinances.—A true copy of every ordinance shall be kept in a book marked "Ordinance Record," and authenticated by the signatures of the Mayor and Clerk.

18. Proof of Ordinances.—Any ordinance may be proved by a copy thereof certified by the Clerk, under the seal of the City; or when printed in book or pamphlet form and purporting to be published by the authority of the City, the same shall be received in evidence in all Courts, or other places, without further proof.

19. Publication of Charter and Ordinances.—The Council shall, as speedily as may be, and in any event within two years from the time of its organization under this Charter, and from time to time thereafter, cause all ordinances at such times in force to be classified under appropriate heads, and to be published in book form, together with or separate from the Charter, and such provisions of the Constitution and laws of the State as the Council may deem expedient.

20. Power to Establish Offices.—The Council shall, consistent with the provisions of this Charter, establish any office, position or employment that may in its opinion be necessary or expedient, and fix the salary and duties thereof. It may at any time abolish the same, whereupon the salary attached thereto shall cease.

21. Statements.—The Council shall cause to be printed each month in pamphlet form a detailed statement of all receipts and expenditures of the City and a summary of its proceedings during the preceding month and furnish printed copies thereof to the public library, the daily newspapers of the City and to persons who shall apply therefor at the office of the Clerk. Said statement shall also show the amount of water used during the preceding month and the amount of reserve water in storage at the end of that month.

22. Vote of Council on Appointments.—All votes upon appointments shall be by roll call and recorded. The vote of three members shall be necessary for appointment.

ARTICLE IV.

THE MAYOR.

23. Duties—Authority—Powers.—(a) The Mayor shall be the chief executive officer of the City.

(b) He shall take care that this Charter, the laws of the State and the ordinances of the City are duly enforced within the City and its jurisdiction. He may remit fines, costs, forfeitures and penalties imposed for the violation of any ordinance, but shall make a report of such remissions to the Council at the next meeting thereafter with his reasons therefor. He shall have power to administer oaths.

(c) He shall sign all contracts, bonds or other instruments requiring the assent of the City and take care that the same are duly performed. All legal process against the City shall be served upon the Mayor or Acting Mayor.

(d) He shall be charged with the general oversight of all departments, boards and commissions of the City.

(e) He shall be ex-officio a member of each board, commission or body created or authorized by this Charter, or by any ordinance of the City.

(f) He shall have the right to vote on all questions coming before the Council.

(g) He shall have power to appoint experts to examine the affairs of any officer or department of the City, whenever he shall deem it necessary.

(h) He may require any officer or employe of the City to exhibit his books and papers. Failure or refusal to exhibit books or papers so required shall be ground for removal.

(i) He shall have and exercise such powers, prerogatives and authority as are conferred by the provisions of this Charter, or as may be conferred upon him by the Council, or by the general laws of the State, not inconsistent with the general purposes and provisions of this Charter.

(j) He shall appoint all officers and employes of the City whose election or appointment is not otherwise expressly provided for in this Charter.

(k) He shall, upon the recommendation of the Commissioner of the appropriate department, appoint such heads of departments, deputies and principal assistants as may be created by this Charter or by ordinance.

(l) He shall, upon like recommendation, appoint all other officers or employes in the service of the City, except day laborers and unskilled workmen, and except as in this Charter otherwise expressly provided. The Commissioner may suspend any officer or employe in his department for a period not exceeding ten days, and the Mayor may suspend or remove any officer or employe for cause, whenever in his judgment the public interests demand or will be better subserved thereby; and no officer whose office, position or employment, is created by ordinance shall hold the same for any fixed term, but shall always be subject to removal by the Mayor. In case of such removal, if the officer or employe so removed requests it, the Mayor shall file in the office of the Clerk a written statement of the reason for which the removal was made. The Council, by the affirmative vote of four members, may remove any of said officers or employes.

(m) He shall employ for a stipulated compensation, at the beginning of each fiscal year, a certified public accountant, who shall examine, at least twice each year, the books, records and reports of the Treasurer and of all officers and employes who receive or disburse City moneys, and the books, records and reports of such other officers and departments as the Mayor may direct and make triplicate reports thereof, and present one each to the Mayor and Treasurer, and file one with the Clerk. Such accountant shall have unlimited privilege of investigation to examine under oath or otherwise all officers, clerks and employes of the City, and every such officer, clerk and employe shall give all required assistance and information to such accountant, and submit to him for examination such books and papers of his office as may be requested, and failure to do so shall be ground for removal. The Council shall provide for the payment of the services of such accountant.

24. Veto Power.—In ordinances making appropriations, the Mayor may veto any or every item therein, but such veto shall only extend to the items so vetoed, and those which he approves shall become effective, and those which he disapproves shall not become effective, unless passed over his veto by the vote of four (4) members of the Council.

ARTICLE V.

EXECUTIVE AND ADMINISTRATIVE DEPARTMENTS.

25. Distribution.—The executive and administrative powers, authority and duties of the City, not otherwise herein provided for, shall be distributed among five departments, as follows:

Department of Water and Water Works,
Department of Finance,
Department of Public Safety,
Department of Public Works and Property,
Department of Public Health and Sanitation.

26. Council Assign Duties.—The Council shall determine and assign the duties of the several departments; shall prescribe the duties of officers and employes; may assign particular officers and employes to one or more of the departments; may require an officer or employe to perform duties in two or more departments, and may make such other rules and regulations as may be deemed necessary or proper for the efficient and economical conduct of the business of the City.

27. Commissioners of Departments.—The Mayor shall be the Commissioner of Water and Water Works. The Council, at its first regular meeting after the election of its members, shall designate by majority vote one Councilman to be Commissioner of Finance, one to be Commissioner of Public Safety, one to be Commissioner of Public Works and Property, and one to be Commissioner of Public Health and Sanitation; *provided, however*, that if the Council is unable to agree upon such designation, the Mayor shall have the authority to make such designation.

28. Council May Change Designation.—The Council may change such designation (except that of the Department of Water and Water Works) by ordinance, or by resolution, whenever it shall determine that the public service requires such change.

29. Commissioner May Employ or Discharge.—The Commissioner for each of the departments shall have the supervision and control of all the affairs and property belonging to such department, except as otherwise provided in this Charter, or by ordinance, subject to such regulations as may be prescribed by the Council. He may employ and discharge or delegate to any subordinate the power to employ and discharge day laborers and unskilled workmen.

ARTICLE VI.

DEPARTMENT OF WATER AND WATER WORKS.

30. Department an Entity.—The Department of Water and Water Works shall embrace all property, rights and obligations of the City in respect of water and water works, and shall insofar as practicable be administered as an entity. To that end all contracts, records and muniments of title pertaining thereto shall be assembled and carefully preserved, and accounts shall be kept of its assets, liabilities, receipts and disbursements, separate and distinct from the accounts of any other department. Its revenue shall be so applied that as far as possible the department shall be self-sustaining.

31. Commissioner Administer Department.—The Commissioner of Water and Water Works is charged with the administration of said department. He shall appoint all such officials, assistants and skilled employes as may be necessary, and may secure the services or advice of hydraulic engineers, special counsel and other experts for such compensation as may be approved by the Council. He shall take care that the water supply of the City is preserved from impairment or pollution and seasonably augmented so as to assure at all times a supply of potable water adequate for the growing needs of the City. To that end he shall cause comparative investigation to be made of all available reservoir sites and sources of such water supply and report thereon to the Council with his recommendations. He shall also prepare and submit to the Council measures for the storage and augmenting of the City's supply of water for ditch and irrigation purposes. He shall cause adequate water measurements and tests to be made and record thereof preserved.

32. Commissioner Fix Rates—Council Impose Fines.—He shall with the approval of the Council expressed by resolution, fix rates and establish regulations for the use of water by consumers and regulations for the orderly administration of the department. The Council shall by ordinance impose fines and penalties for the violation of any of said regulations.

33. Duty of Commissioner as to Bonds.—He shall, as soon as may be after this Charter goes into effect, prepare with the advice of the Commissioner of Finance a measure for the retirement by purchase or redemption of the existing water bonds of the City through the issuance and sale hereby provided for of bonds of the City to mature not later than fifty years from their date, bearing interest at a rate not exceeding four per centum per annum and providing for payments into a sinking fund commencing not earlier than ten years from their date, said interest and sinking fund payments to be chargeable primarily upon the revenues of the department, and shall submit said measure to the Council for action thereon.

He shall from time to time in like manner prepare and submit to the Council for action thereon measures for such bond issues or other financing of the department's affairs as the needs of the City may require.

34. Emergency Warrants.—If at any time the moneys appropriated and available for said department shall be insufficient in his judgment to meet any emergency arisen in said department since the passage of the last annual appropriation ordinance, the Council may, upon his requisition and by resolution declaratory of the emergency, cause emergency warrants to be issued in an aggregate amount not exceeding one hundred thousand dollars in any one year, bearing interest at a rate not exceeding six per centum per annum, and payable out of the receipts of said department for the ensuing year, including proceeds from the sale of bonds. Said warrants and the moneys realized thereon shall be applied only to meeting the emergency so declared.

ARTICLE VII.

DEPARTMENT OF FINANCE.

35. Fiscal Year Same as Calendar Year.—The fiscal year of the City shall commence on the first day of January and end on the last day of December of each year.

36. Public Moneys.—The Commissioner of Finance shall have the direct control of the revenues of the City except as otherwise provided by this Charter or by ordinance.

The Council shall by ordinance provide a system for the collection, custody and disbursement of all public moneys, not inconsistent with the provisions of this Charter.

The Council shall by ordinance provide a system of accounting for the City, not inconsistent with the provisions of this Charter, which shall be assimilated as nearly as may be to the uniform system of municipal accounting.

The Council shall by ordinance provide a system for the assessment, equalization, levy and collection of all City taxes, not inconsistent with the provisions of this Charter.

37. Adoption of Existing Law.—Until the Council shall otherwise by ordinance provide, the Statutes of the State of Colorado now or hereafter in force, shall govern the making of assessments by the Assessor of the County in which the City is situated, the making of equalization by the Board of County Commissioners of said County and the collection of taxes by the Treasurer of said County for and on behalf of the City, as also in respect of the certification and collection of all delinquent charges, assessments or taxes.

38. Certificate of Assessment.—Until the Council shall otherwise by ordinance provide, it shall be the duty of the County Assessor as soon as the assessment roll is ready in each year for the extension of taxes in accordance with the general laws of the State, to certify to the Council the total amount of property assessed within the limits of the City.

39. Estimates of Probable Expense.—On or before the first Monday in November in each year the Commissioners, Boards and Commissions of the City shall furnish to the Mayor estimates in writing of the probable expense to be incurred in their several departments for the ensuing fiscal year, specifying in detail such probable expenditures, including a statement of the salaries of their subordinates. Duplicates of these estimates shall be sent at the same time to the Commissioner of Finance.

The Commissioner of Finance shall, on or before the first Monday in November in each year, certify to the Mayor the amount of money to be raised by taxation during the ensuing fiscal year to make payment of interest, sinking fund and principal of bonded indebtedness, and also the estimated amount of revenue from all sources other than tax levy.

40. Mayor's Budget.—From such estimates the Mayor shall, on or before the third Monday in November in each year, or on such later date in each year as shall be fixed by the Council, prepare and present to the Council his annual budget for the ensuing fiscal year, which shall include interest and sinking fund on the bonded debt. The budget so prepared shall be in such detail as to the aggregate sum and the items thereof allowed to each department, office, board or commission as the Mayor may deem advisable.

41. Action on Budget.—The Council shall, on receipt of the budget, consider and adopt the same with or without amendment. In amending the Council may reduce or omit any item but shall not increase any item nor the total of the budget nor add any item thereto nor originate a budget.

The Council shall also in adopting the said budget, estimate and declare the amount of money necessary to be raised by tax levy, taking into account the amounts available from other sources to meet the expenses of the City for the ensuing fiscal year, based on the budget so adopted. Said budget and estimate as finally adopted shall be signed by the Mayor and Clerk and filed with the Auditor.

42. Levy.—Upon said estimate the Council shall forthwith proceed to make by ordinance the proper levy in mills upon each dollar of the assessed valuation of all taxable property within the City, such levy representing the amount of taxes for City purposes necessary to provide for payment during the ensuing fiscal year of all properly authorized demands upon the Treasurer, and until the Council shall otherwise by ordinance provide, the Council shall thereupon cause the total levy to be certified by the Clerk to the County Assessor who shall extend the same upon the tax list of the current year in a separate column entitled "The City of Colorado Springs Taxes," and shall include said City taxes in his general warrant to the County Treasurer for collection. The levy shall never exceed twenty mills on the dollar for all general City purposes upon the total assessed valuation of said taxable property within the City. The foregoing limitation of twenty mills shall not apply to taxes levied by the

Council for the payment of any interest, sinking fund or principal of any bonded indebtedness of the City now existing or hereafter created, nor for payment of interest, sinking fund or principal of the indebtedness of any town or city which may hereafter be incorporated with or annexed to the City; nor to special assessments for local improvements.

If the Council fail in any year to make said tax levy as above provided, then the rate last fixed shall be the rate fixed for the ensuing fiscal year.

The amount required to make payment of any interest, sinking fund or principal of bonded indebtedness shall always be included in and met by tax levy, except as otherwise provided for in this Charter.

43. Appropriations.—Upon the basis of the budget as adopted and filed the several sums shall forthwith be appropriated by ordinance to the several purposes therein named for the ensuing fiscal year. Said ordinance shall be adopted not later than the thirty-first day of December in each year, and shall be entitled "The Annual Appropriation Ordinance."

44. No Liability Without Appropriation.—Neither the Council nor any officer or employe of the City shall have authority to make any contract involving the expenditure of public money, or impose upon the City any liability to pay money unless and until a definite amount of money shall have been appropriated for the liquidation of all pecuniary liability of the City under such contract or in consequence thereof to mature during the period covered by the appropriation. Such contract shall be *ab initio* null and void as to the City for any other or further liability; *provided*, first, that nothing herein contained shall prevent the Council from providing for payment of any expense, the necessity of which is caused by any casualty, accident or unforeseen contingency arising after the passage of the annual appropriation ordinance; and, second, that the provisions of this section shall not apply to or limit the authority conferred in relation to bonded indebtedness, nor for moneys to be collected by special assessments for local improvements.

45. Special Appropriations for 1909.—The Council shall during the year 1909 pass such special appropriation ordinances as may be necessary to pay the salaries and defray the expenses of any and all departments, officers and employes of the City for the year 1909, but not thereafter, for which provision is not made in the existing appropriation ordinance for that year, and the warrants for the payment of such salaries and expenses after being duly allowed and audited, may be drawn against such appropriation, and the amount so required for the payment of such warrants, or so much thereof as may be necessary, shall be payable out of any available moneys not otherwise appropriated, or failing such moneys the warrants shall be registered and payable out of the revenue for the next ensuing fiscal year.

46. Collection of Taxes.—Until the Council shall otherwise by ordinance provide, the County Treasurer shall collect City taxes in the same manner and at the same time as State taxes are collected, and all laws of this State for the assessment of property and the levy and collection of general taxes, including laws for the sale of property for taxes and the redemption of the same shall apply and have as full effect in respect of taxes for the City as of such general taxes, except as modified by this Charter.

On or before the fifth day of every month, the County Treasurer shall report the amount of tax collections for the preceding month to the Auditor and shall pay over the amount collected for the preceding month to the Treasurer.

47. Limitation of City Indebtedness.—Except as otherwise in this Charter provided, no bonds shall be issued for any purpose, except in pursuance of an ordinance authorizing the same, which ordinance shall be irrevocable until the indebtedness therein provided for, and the bonds issued in pursuance thereof, shall have been fully paid, and no bonds shall be issued unless the question of issuing the bonds shall be submitted to the vote of such qualified electors of the City as shall in the year next preceding such election have paid a property tax therein, and a majority of those voting upon the question by ballot shall vote in favor of issuing such bonds.

The City shall not become indebted for any purpose or in any manner to an amount which, including existing indebtedness, shall exceed three per cent. of the assessed valuation of the taxable property within the City, as shown by the last preceding assessment for City purposes; *provided, however*, that in determining the limitation of the City's power to incur indebtedness there shall not be included bonds issued for the acquisition of water, light or other public utilities, works or ways from which the City will derive a revenue.

48. Special Statute Continued in Force.—The provisions of Sections 6657 and 6658 of the Revised Statutes of Colorado 1908 relating to sidewalks, and of Sections 6687 to 6694 thereof inclusive, relating to refunding bonds, are hereby made and declared to be in full force and effect in the City until the Council shall otherwise by ordinance provide.

ARTICLE VIII.

DEPARTMENT OF PUBLIC SAFETY.

49. Council Establish Police and Fire Departments.—The Council shall, by ordinance, provide for the establishment and maintenance of a Police Department and a Fire Department, consisting of such employees as it may deem necessary.

50. Commissioner Have Supervision.—The Commissioner of Public Safety shall have the supervision and control of the Police and Fire Departments except as otherwise provided in this Charter, or by ordinance.

51. Police and Fire Department Relief Funds.—The Council shall by ordinance provide for a police department relief fund and for a fire department relief fund, to be administered by the Commissioner of Public Safety. The Council shall annually appropriate a reasonable sum for each of said funds.

POLICE COURT.

52. Existing Law Apply.—The existing Police Court of the City shall continue as provided in Sections 4946 to 4960 inclusive, of the Revised Statutes of Colorado, 1908, until otherwise provided by ordinance.

53. Jurisdiction.—Said Police Court shall have exclusive original jurisdiction to hear, try and determine all charges of misdemeanor as declared by this Charter and all causes arising under any of the ordinances of the City for a violation thereof. There shall be no trial by jury and there shall be no change of venue from said court.

ARTICLE IX.

DEPARTMENT OF PUBLIC WORKS AND PROPERTY.

54. Commissioner Have Supervision.—The Commissioner of Public Works and Property shall have the supervision and control of all streets, public works, ways, buildings and improvements, except as otherwise provided in this Charter or by ordinance.

There shall be appointed in the manner provided in this Charter all such assistants and employes as may be or become necessary to the efficient administration of this department of the City's government.

ARTICLE X.

DEPARTMENT OF HEALTH AND SANITATION.

55. Assistants and Employes.—There shall be appointed in the manner provided in this Charter, a health officer, city chemist, market master, plumbing inspector and superintendent of cemeteries and all such assistants and employes as may be or become necessary to the efficient administration of this department of the City's government.

56. Qualifications of Health Officer.—The health officer shall be a graduate of a reputable medical college and shall have practiced medicine for at least five years. He shall have been a resident of this City for at least two years next preceding his appointment and shall be licensed to practice medicine in this State; he shall have his license recorded with the County Clerk and Recorder of El Paso County, in accordance with the laws of the State of Colorado regulating the practice of medicine. Such health officer shall devote as much time as is necessary to the duties of his office.

57. Qualifications of Assistants.—The chemist, market master, plumbing inspector, and the superintendent of cemeteries shall be persons properly skilled and qualified for the efficient and capable performance of their respective duties.

58. Power of Arrest.—The Commissioner of Health and Sanitation and all regularly appointed employes of the Department of Health and Sanitation shall have the right and power to arrest any person or persons who may violate any of the rules or regulations of the department.

59. Duty of Physicians and Householders.—Every physician in the City shall promptly report in writing to said department every patient whom he shall have sick of any infectious, contagious or communicable disease dangerous to public health; and every householder, upon reasonable notice from said department, that an occupant of his or her household is suffering from any infectious, contagious or communicable disease, dangerous to the public health, shall forthwith adopt such preventive means and regulations as said department shall prescribe. Every physician who shall fail to report such case of sickness as required herein, and every householder who shall fail to comply with the rules, requirements and regulations of said department, shall be subject to such fines and penalties as the Council may by ordinance prescribe.

60. Council Make Ordinances.—The Council shall make all ordinances and regulations which may be necessary or expedient for the preservation of the public health and the suppression of disease.

ARTICLE XI.

COMMISSIONS AND BOARDS.

PARKS.

61. Commission—Statutes Apply.—The existing Park Commission of the City shall continue with the powers, functions and duties established by Sections 6771 to 6788 inclusive, of the Revised Statutes of Colorado, 1908, as in force January 1, 1909, until changed by amendment of this Charter.

PUBLIC LIBRARY.

62. Board—Statutes Apply.—The existing Board of Directors of the Public Library of the City of Colorado Springs shall continue with the powers, functions and duties established by Sections 3972 to 3984 inclusive, of the Revised Statutes of Colorado, 1908, as in force January 1, 1909, until changed by amendment of this Charter.

ARTICLE XII.

FRANCHISES AND PUBLIC UTILITIES.

63. Franchise Granted Upon Vote.—No franchise shall be granted by the City except upon the vote of the qualified tax-paying electors,

and the question of its being granted shall be submitted to such vote upon deposit with the Treasurer of the expense (to be determined by the Treasurer) of such submission by the applicant for said franchise.

64. Franchise Specify Streets.—All franchises or privileges hereafter granted shall plainly specify on what particular streets, alleys, avenues or other public property the same shall apply; and no franchise or privilege shall hereafter be granted by the City in general terms or to apply to the City generally.

65. Power to Regulate Rates and Fares.—All power to regulate the rates, fares and charges for service by public utility corporations is hereby reserved to the people, to be exercised by them by ordinance of the Council or in the manner herein provided for initiating or referring an ordinance. Any right of regulation shall further include the right to require uniform, convenient and adequate service to the public and reasonable extensions of such service and of such public utility works.

66. Ordinance in Plain Terms.—No franchise, right or privilege or license shall be considered as granted by any ordinance except when granted therein in plain and unambiguous terms and any and every ambiguity therein shall be construed in favor of the City and against the claimant under said ordinance.

67. Issuance of Stock.—Every ordinance granting any franchise shall prohibit the issuing of any stock on account thereof by any corporation holding or doing business under said franchise, to an amount in excess of the sum which shall be fixed for said purpose by the Council whenever requested so to do by the holder of said franchise; the said sum as fixed by the Council shall consist of the following items, only, to-wit:

(a) The sum necessarily expended by the grantee of said franchise in obtaining the same from the City; and

(b) The sum which is in the opinion of the Council reasonably sufficient to compensate said grantee for the time and services given by him in obtaining said franchise. Any violation of the terms of this section shall at the option of the City operate as a forfeiture of said franchise.

68. License Tax.—The City shall have the right to license or tax street cars, telephones, gas meters, electric meters, water meters, or any other similar device for measuring service; also telephone, telegraph, electric light and power poles, subways and wires. The said license or tax shall be exclusive of and in addition to all other lawful taxes upon the property of the holder thereof.

69. Special Privileges to Mail Carriers, Policemen and Firemen.—The grant of every franchise for a street, suburban or interurban railroad shall provide that all United States mail carriers and all policemen and firemen of the City in uniform shall at all times, while in the actual discharge of their duties, be allowed to ride on

the cars of such railroad within the boundaries of the City without paying therefor and with all the rights of other passengers.

70. Railroad Elevate or Lower Tracks.—The Council shall by ordinance, require under proper penalties, any railroad company, whether steam or electric, to elevate or lower any of its tracks running over, along or across any of the streets or alleys of the City, whenever in the opinion of the Council the public safety or convenience require.

71. Franchise Provide for Safety, Etc.—The grant of every franchise or privilege shall be subject to the right of the City, whether in terms reserved or not, to make all regulations which shall be necessary to secure in the most ample manner the safety, welfare and accommodation of the public, including among other things the right to pass and enforce ordinances to require proper and adequate extensions of the service of such grant, and to protect the public from danger or inconvenience in the operation of any work or business authorized by the grant of the franchise and the right to make and enforce all such regulations as shall be reasonably necessary to secure adequate, sufficient and proper service, extensions and accommodations for the people and insure their comfort and convenience.

72. Oversight of Franchise for Use of Water Reserved to City.—Every franchise, right or privilege which has been, or which may be hereafter granted, conveying any right, permission or privilege to the use of the water belonging to the City or to its water system, shall always be subject to the most comprehensive oversight, management and control in every particular by the City; and the rights of the City to such control for municipal purposes is retained by the City in order that nothing shall ever be done by any grantee or assignee of any such franchise, right or privilege which shall in any way interfere with the successful operation of the water works of the City, or which shall, or which shall tend to, divert, impair or render the same inadequate for the complete performance of the trust for the people under which such water works are held by the City.

73. No Exclusive Franchise—Renewal.—No exclusive franchise shall ever be granted, and no franchise shall be renewed before one year prior to its expiration.

74. No Franchise Leased, Except.—No franchise granted by the City shall ever be leased, assigned or otherwise alienated without the express consent of the City, and no dealing with the lessee or assignee on the part of the City to require the performance of any act or payment of any compensation by the lessee or assignee, shall be deemed to operate as such consent. No such franchise shall ever be assigned to any foreign corporation.

75. No Extension or Enlargement of Franchise, Except.—No extension or enlargement of any franchise or grant of rights or powers previously granted to any corporation, person or association of

persons, shall be made except in the manner and subject to all the conditions herein provided for in this Article for the making of original grants and franchises; *provided, however*, that the provisions of this Article shall not apply to the granting by ordinance of revocable licenses or privileges for side track or switch privileges to railway companies for the purpose of reaching and affording railway connection and switch privileges to the owners or users of any industrial plant, it being the intention to permit the City to grant such revocable licenses or privileges to railway companies whenever in its judgment the same is expedient, necessary or advisable, and whenever the application for such privileges is accompanied by the assent in writing of the owners of the major part in extent of the front feet of the lots or tracts of land of the block fronting on each side of any street, or parts of a street, over or on which it is desired to lay or construct such side tracks or switches.

76. Provision for Common Use of Tracks, Poles, Etc.—The City, by and through its Council, shall have the power to require any corporation holding a franchise from the City, to allow the use of its tracks, poles and wires by any other corporation to which the City shall grant a franchise, upon the payment of a reasonable rental therefor, and any franchise or right which may hereafter be granted to any person or corporation to operate a street railway within the City or its suburbs, shall be subject to the condition that the City shall have the right to grant to any other person or corporation desiring to build or operate a street railway or interurban railway within or into the City, the right to operate its cars over the tracks of said street railway in so far as may be necessary to enter the City and to reach the section thereof used for business purposes, provided that the person or corporation desiring to operate its cars over the lines of said street railway, shall first agree in writing with the owner thereof to pay it reasonable compensation for the use of its tracks and facilities. And if the person or corporation desiring to use the same cannot agree with said owner of said street railway as to said compensation, within sixty days from offering in writing so to do, and as to terms and conditions of the use of said tracks and facilities, then the Council shall, by resolution, after a fair hearing to the parties concerned, fix the terms and conditions of such use and compensation to be paid therefor, which award of the Council when so made, shall be binding on and observed by the parties concerned.

77. Mayor Maintain General Supervision—Reports—Inspection.—The Mayor shall maintain general supervision over all public utility companies insofar as they are subject to municipal control. He shall cause to be instituted such actions or proceedings as may be necessary to prosecute public utility companies for violations of law, and may revoke, cancel or annul all franchises that may have been granted by the City, which have become in whole or in part, or which for any reason are, illegal or void and not binding upon the City.

He shall require every person or corporation operating under a

franchise or grant from the City, to submit to the Council within sixty days after the first day of January of each year, an annual report, verified by the oath of the President, the Treasurer or the General Manager thereof, showing in detail—

(a) The amount of its authorized capital stock and the amount thereof issued and outstanding.

(b) The amount of its authorized bonded indebtedness and the amount of its bonds and other forms of evidence of indebtedness issued and outstanding.

(c) An itemized statement of its receipts and expenditures for the preceding calendar year.

(d) The amount paid as dividends upon its stock and as interest upon its bonds and other indebtedness.

(e) The names of and the amount paid as salary to each officer and the amount paid as wages to its employes.

(f) A full description of its property and franchises, stating in detail how each franchise stated to be owned was acquired and the book value thereof; and

(g) Such other information as may be required by the Council.

Such reports shall be in the form and cover the period prescribed by the Council; and the Council shall have the power either through members or by experts or employes duly authorized by it, to examine the books and affairs of any such person, persons or corporations and to compel the production before them of books and papers pertaining to such report or other matters.

Any such person, persons or corporation which shall fail to make any such report, shall be liable to a penalty of one hundred dollars and an additional penalty of one hundred dollars for each and every day thereafter, during which he shall fail to file his report, to be sued for and recovered in any court of record.

The Mayor shall have the power, either personally or through the City's inspectors or employes duly authorized by the Council, to enter into or upon and to inspect the buildings, plants, power houses and all properties of any such person, persons or corporation, and shall inspect the properties of such person, persons or corporation at least once a year and shall immediately thereafter report to the Council a detailed and complete statement of such inspection.

78. Books of Record and Reference.—The Mayor shall provide and cause to be kept in the office of the City Clerk, the following books of record and reference:

First—A Franchise Record, indexed and of proper form in which shall be transcribed accurate and correct copies of all franchises or grants by the City to any person, persons or corporation owning or operating any public utility. The index of said record shall give the name of the grantee and thereafter the name of any assignee thereof. Said record shall be a complete history of all franchises

granted by the City and shall include a comprehensive and convenient reference to actions, contests or proceedings at law, if any, affecting the same.

Second—A Public Utility Record, for every person, persons or corporation owning or operating any public utility under any franchise granted by the City, into which shall be transcribed accurate and correct copies of each and every franchise granted by the City to said person, persons or corporation or which may be controlled or acquired by them or it, together with copies of all annual reports and inspection reports, as herein provided, and such other matters of information and public interest as the Mayor may from time to time acquire. All annual and inspection reports shall be published once in two daily newspapers of general circulation published in the City, or printed and distributed in pamphlet form, as the Council may deem best, and in case annual reports are not filed and inspections are not made, as provided, the Mayor shall in writing report to the Council the reasons therefor, which report shall be transcribed in the Record of the person, persons or corporation owning or controlling said franchise or grant, and published once in two daily newspapers of general circulation published in the City, or printed and distributed in pamphlet form, as the Council may deem best.

The provisions of this section shall apply to all persons or corporations operating under any franchise now in force or hereafter granted by the City.

79. Books of Account —Examination.—The City, when owning any public utility, shall keep the books of accounts for such public utility distinct from other City accounts and in such manner as to show the true and complete financial result of such City ownership, or ownership and operation, as the case may be. Such accounts shall be so kept as to show the actual cost to such City of the public utility owned; all cost of maintenance, extension and improvement; all operating expenses of every description, in case of such City operation; the amounts set aside for sinking fund purposes; if water or other service shall be furnished for the use of such public utility without charge, the accounts shall show, as nearly as possible the value of such service, and also the value of such similar service rendered by the public utility to any other City department without charge; such accounts shall also show reasonable allowance for interest, depreciation and insurance, and also estimates of the amount of taxes that would be chargeable against such property if owned by a private corporation. The Council shall cause to be printed annually for public distribution, a report showing the financial results, in form as aforesaid, of such City ownership, or ownership and operation. The accounts of such public utility, kept as aforesaid, shall be examined at least once a year by an expert accountant, who shall report to the Council the results of his examination. Such expert accountant shall be selected in such manner as the Council may direct, and he shall receive for his services such compensation, to be paid out of the income or revenues from such public utility, as the Council may prescribe.

80. Term Not Longer Than Twenty-five Years—Compensation.

—No franchise, lease or right to use the streets, or the public places or property of the City shall be granted by the City, except as in this Charter provided, for a longer period than twenty-five (25) years, nor without fair compensation to the City therefor, and in addition to the other forms of compensation to be therein provided, the grantee shall be required to pay annually to the City such percentage of the gross receipts arising from the use of such franchise and of the plant used therewith as shall be fixed in the grant of said franchise. *Provided*, that such percentage be not less than three per cent. during the first fifteen years and not less than five per cent. of said gross annual receipts for the remainder of the life of the franchise. Every grant of a franchise shall fix the amount and manner of the payment of the compensation to be paid by the grantee for the use of the same and no other compensation of any kind shall be exacted for such use during the life of the franchise, but this provision shall not exempt the grantee from any lawful taxation upon his or its property, nor from any licenses, charges or impositions not levied on account of such use.

81. City May Purchase—Procedure.—(a) Every grant of a franchise or right shall provide that the City may, upon the payment therefor of its fair valuation, to be made as provided in the grant, purchase and take over the property and plant of the grantee in whole or in part.

The procedure to effect such purchase shall be as follows:

When the Council shall, by resolution, direct that the Mayor shall ascertain whether any such property or part thereof, should be acquired by the City, or in the absence of such action of the Council, when a petition subscribed by ten per centum of the qualified tax-paying electors requesting that the Mayor shall ascertain whether any such property or part thereof should be acquired by the City, shall be filed with the Clerk, the Mayor shall forthwith carefully investigate said property and report to the Council—

(1) At what probable cost said property may be acquired.

(2) What, if any, probable additional outlays would be necessary to operate same.

(3) Whether, if acquired, it could be operated by the City at a profit or advantage in quality or cost of service, stating wherein such profit or advantage consists.

(4) Whether, if acquired, it could be paid for out of its net earnings, and if so, within what time, and

(5) Such other information touching the same as he shall have acquired.

Such report shall be made in writing, shall include a statement of facts in relation thereto with such particularity as will enable the

Council to judge of the correctness of his findings, and immediately after submission to the Council, shall be filed with the Clerk, recorded in the Public Utility Record and published once in each of two daily newspapers of general circulation published in the City, or printed and distributed in pamphlet form, as the Council may deem best.

If a petition subscribed by twenty-five per centum of the qualified tax-paying electors of the City, requesting that the question whether or not the City shall acquire said property shall be submitted to a vote of the people, shall within sixty days after the filing of said report be filed with the Clerk, the Council shall provide by ordinance for the submission of the question to a vote of the qualified tax-paying electors.

(b) Every grant reserving to the City the right to acquire the plant as well as the property, if any, of the grantee situated in, on, above or under the public places of the City, or elsewhere, used in connection therewith, shall in terms specify the method of arriving at the valuation therein provided for and shall further provide that upon the payment by the City of such valuation the plant and property so valued, purchased and paid for shall become the property of the City by virtue of the grant and payment thereunder and without the execution of any instrument of conveyance; and every such grant shall make adequate provision by way of forfeiture of the grant, or otherwise, for the effectual securing of efficient service and for the continued maintenance of the property in good order and repair throughout the entire term of the grant.

(c) Whenever any plant or property shall become the property of the City of Colorado Springs, the City shall have the option at any time then or thereafter either to operate the same on its own account, or by ordinance to lease the same or any part thereof together with the franchise or right to use the streets or other public property in connection therewith for periods not exceeding twenty-five years under such rules and regulations as it may prescribe, or by ordinance to sell the same to the highest bidder at public sale.

82. Matters in Charter Not to Impair Right of Council to Insert Other Matters in Franchise.—The enumeration and specification of particular matters in this Charter which must be included in every franchise or grant, shall never be construed as impairing the right of the Council to insert in such franchise or grant, such other and further matters, conditions, covenants, terms, restrictions, limitations, burdens, taxes, assessments, rates, fares, rentals, charges, control, forfeitures, or any other provision whatever, as the Council shall deem proper to protect the interests of the people.

83. Revocable Permits.—The Council may grant a permit at any time, in or upon any street, alley or public place, provided such permit may be revocable by the Council at its pleasure at any time, whether such right to revoke be expressly reserved in every permit or not.

ARTICLE XIII.

ELECTIONS.

84. General and Special Municipal Elections.—A municipal election shall be held in the City on the first Tuesday of July in 1909 and on the first Tuesday of April in 1911, and on the first Tuesday in April of every second year thereafter, and shall be known as the General Municipal election.

A second election shall be held when necessary as provided in Section 104 of this Charter, on the second Tuesday after said General Municipal election and shall be known as the Second General Municipal election. All other municipal elections that may be held by authority of this Charter or of general law shall be known as Special Municipal elections.

85. Registration.—(a) No person shall be permitted to vote at any municipal election, without having been registered as required by the provisions of this Article.

(b) The Clerk shall, as soon as may be, after each general State election, secure from the county clerk of El Paso County a certified copy of the registration lists of the electors of the City registered for that election.

(c) For municipal elections no new registration shall be required, except as hereinafter provided, but any qualified elector of the City whose name is on the registration lists used at the then last preceding general State election, and who still resides at the place designated in his said registration, shall be deemed properly registered for any such election; and additional registration and changes in registration may be made as hereinafter provided.

(d) On the eleventh day preceding any municipal election the Clerk shall deliver to the registration committee of each election precinct the proper registration list, and on the tenth day preceding the election thus to be held, or if that day be a legal holiday or a Sunday, then on the succeeding day, the registration committee for each precinct shall sit from nine o'clock A. M. until nine o'clock P. M. at some suitable place within the precinct to be provided by the Clerk, and shall place on said registration lists the names of all qualified electors of that precinct who are not registered and who shall present themselves for registration and comply with the requirements prescribed by the general registration laws of the State.

(e) Before any municipal election held for any purpose any qualified elector whose name does not appear upon the registration lists shall have the right to have his name placed upon such registration lists by presenting himself for registration at the office of the Clerk between the hours of eight o'clock A. M. and nine o'clock P. M. on the eighth day preceding the election thus to be held, or if that day be a legal holiday or a Sunday, then on the succeeding day, and by complying with the requirements prescribed by the general registration laws of the State.

W. Carey Jones

2625 Benvenue Av.

Berkeley

Calif.

General Municipal Election, City of Colorado Springs

Tuesday, July 6, A. D. 1909

INSTRUCTIONS TO VOTERS:

To vote, place a cross (X) mark with ink in THE CIRCLE opposite the name of the candidate for whom you desire to vote. All distinguishing marks are forbidden and make the ballot void. If you wrongly mark, tear or deface this ballot, return it to the Judges of Election and obtain another.

FOR MAYOR	VOTE FOR ONE	FOR COUNCILMEN	VOTE FOR FOUR
HENRY F. AVERY.....	<input type="radio"/>	M. J. ACTON.....	<input type="radio"/>
DAVID N. HIEZER.....	<input type="radio"/>	CURTIS W. BURNAM.....	<input type="radio"/>
ROBERT KERR.....	<input type="radio"/>	EDWARD EVANS CARRINGTON.....	<input type="radio"/>
J. L. SCHAEFER.....	<input type="radio"/>	F. E. DOW.....	<input type="radio"/>
WILLIAM H. SPURGEON.....	<input type="radio"/>	SIMEON J. DUNBAR.....	<input type="radio"/>
.....	<input type="radio"/>	EDWARD W. FROST.....	<input type="radio"/>
		S. A. GARTH.....	<input type="radio"/>
		CHAS. L. GILLINGHAM.....	<input type="radio"/>
		R. J. GWILLIM.....	<input type="radio"/>
		EDWARD M. HARNER.....	<input type="radio"/>
		JOHN A. HIMEBAUGH.....	<input type="radio"/>
		A. M. HOLDEN.....	<input type="radio"/>
		<input type="radio"/>
		<input type="radio"/>
		<input type="radio"/>
		WILLIAM T. KASSON.....	<input type="radio"/>
		ANDREW J. LAWTON.....	<input type="radio"/>
		W. H. MCINTYRE.....	<input type="radio"/>
		WM. E. MODERSON.....	<input type="radio"/>
		W. W. PRICE.....	<input type="radio"/>
		FRANCIS L. ROUSE.....	<input type="radio"/>
		HARRY A. SCURR.....	<input type="radio"/>
		MARK A. SKINNER.....	<input type="radio"/>

(f) Any qualified elector whose name appears upon said registration list, but who has removed from the precinct in which he is registered to some other precinct, may appear before the Clerk at any time within five days prior to any municipal election and, upon making oath in writing as to his then present residence, said Clerk shall draw a line in red ink through the registration of such person, making a note as follows: "Changed.....19--- to precinct --- ward.....," inserting the date and number of precinct and ward therein, and shall register in red ink such person in the registration list for the precinct in which such person then resides; and a change of residence within the same precinct may be made in like manner. The Clerk or deputy making such change shall sign his name in the column provided for the signatures of the registration committee, and the person so registered shall also sign his name as in the case of an original registration.

(g) The registration committee and the judges and the clerks of election shall be the same as are now or may hereafter be provided by the general laws of the State, except as the Council may otherwise by ordinance provide.

86. Nomination and Election of Officers.—The mode of nomination and election of all elective officers of the City to be voted for at any municipal election shall be as follows and not otherwise:

87. Condition of Candidacy.—The name of a candidate shall be printed upon the ballot when a petition of nomination shall have been filed in his behalf in the manner and form and under the conditions hereinafter set forth.

88. Form of Nomination Petition.—The petition of nomination shall consist of not less than twenty-five individual certificates, which shall read substantially as follows:

PETITION OF NOMINATION.

INDIVIDUAL CERTIFICATE.

STATE OF COLORADO, }
COUNTY OF EL PASO, } ss.
City of Colorado Springs. }

I do hereby join in a petition for the nomination of.....
..... whose residence is at No.....
..... Street, Colorado Springs, for the
office of..... to be voted for at the municipal elec-
tion to be held in the City of Colorado Springs on the..... day
of..... 19---; and I certify that I am a qualified
elector and am not at this time a signer of any other certificate nomi-
nating any other candidate for the above named office, or, [in case
there are several places to be filled in the above named office,] that I
have not signed more certificates than there are places to be filled in
the above named office; that my residence is at No.....
..... Street, Colorado Springs.

OFFICIAL BALLOT FOR
ELECTION PRECINCT NO. 2,
WARD 6,
CITY OF COLORADO SPRINGS,
COLO., JULY 6, A. D. 1909

E. A. Whitaker
City Clerk.

(f) Any qualified elector whose name appears upon said registration list, but who has removed from the precinct in which he is registered to some other precinct, may appear before the Clerk at any time within five days prior to any municipal election and, upon making oath in writing as to his then present residence, said Clerk shall draw a line in red ink through the registration of such person, making a note as follows: "Changed.....19--- to precinct ward.....," inserting the date and number of precinct and ward therein, and shall register in red ink such person in the registration list for the precinct in which such person then resides; and a change of residence within the same precinct may be made in like manner. The Clerk or deputy making such change shall sign his name in the column provided for the signatures of the registration committee, and the person so registered shall also sign his name as in the case of an original registration.

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INDIVIDUAL CERTIFICATE.

STATE OF COLORADO, }
COUNTY OF EL PASO, } ss.
City of Colorado Springs. }

I do hereby join in a petition for the nomination of.....
..... whose residence is at No.....
..... Street, Colorado Springs, for the
office of..... to be voted for at the municipal elec-
tion to be held in the City of Colorado Springs on the..... day
of..... 19---; and I certify that I am a qualified
elector and am not at this time a signer of any other certificate nomi-
nating any other candidate for the above named office, or, [in case
there are several places to be filled in the above named office,] that I
have not signed more certificates than there are places to be filled in
the above named office; that my residence is at No.....
..... Street, Colorado Springs.

I further certify that I join in this petition for the nomination of the above named person believing that he has not become a candidate as the nominee or representative of or because of any promised support from any political party or any committee or convention representing or acting for any political party.

(Signed)-----

STATE OF COLORADO, {
COUNTY OF EL PASO, { ss.
City of Colorado Springs. }

-----, being first duly sworn, deposes and says that he is the person who signed the foregoing certificate and that the statements therein are true.

(Signed)-----

Subscribed and sworn to before me this-----day of ----- 19-----

My commission expires-----

Notary Public.

The petition of nomination of which this certificate forms a part shall, if found insufficient, be returned to-----
at No.-----Street, Colorado Springs.

89. Forms to be Supplied by the Clerk.—It shall be the duty of the Clerk to furnish upon application, a reasonable number of forms of such individual certificates.

90. Requirements of Certificate.—Each certificate must be a separate paper. All certificates must be of a uniform size as determined by the Clerk. Each certificate must contain the name of one signer thereto and no more. Each certificate shall contain the name of one candidate and no more. In case an elector has signed two or more conflicting certificates, all such conflicting certificates shall be rejected. Each signer must make oath to his certificate before a Notary Public substantially in the form prescribed in Section 88 of this Charter.

91. Date of Presenting Petition.—A petition of nomination, consisting of not less than twenty-five individual certificates for any one candidate, may be presented to the Clerk not earlier than thirty nor later than twenty days before the election. The Clerk shall endorse thereon the date upon which the petition was presented to him.

92. Examination of Petition by Clerk.—When a petition of nomination is presented for filing to the Clerk, he shall forthwith examine the same, and ascertain whether it conforms to the provisions of this Article. If found not to conform thereto, he shall then and there in writing designate on said petition the defect or omission or reason why such petition cannot be filed, and shall forthwith return the petition to the person named as the person to whom the same shall be

returned in accordance with this Article. The petition may then be amended and again, but not later than three days after said petition shall have been returned, presented to the Clerk, as in the first instance. The Clerk shall forthwith proceed to examine the amended petition as hereinbefore provided.

93. Filing of Petitions.—If either the original or the amended petition of nomination be found sufficiently signed, as hereinbefore provided, the Clerk shall file the same forthwith.

94. Acceptance or Withdrawal of Candidate.—Any person nominated under this Article shall file his acceptance with the Clerk within five days from the filing of the petition of nomination and in the absence of such acceptance the name of the candidate shall not appear on the ballot. In said acceptance he shall make affidavit to the fact that he has not become a candidate as the nominee or representative of or because of any promised support from any political party or any committee or convention representing or acting for any political party. Any person whose name has been presented under this Article as a candidate may, not later than fifteen days before the day of election, cause his name to be withdrawn from nomination by filing with the Clerk a request therefor in writing, and no name so withdrawn shall be printed upon the ballot.

95. Preservation of Petitions.—The Clerk shall preserve in his office for a period of two years all petitions of nomination and all certificates belonging thereto filed under this Article.

96. Election Notices.—The Clerk shall, on the tenth day before the election, certify a list of the candidates so nominated whose names are entitled to appear on the ballot as being the list of candidates nominated as required by this Charter, with the offices to be filled, and the Council shall cause said certified list of names and the offices to be filled, designating whether for a full or unexpired term, to be published in a notice calling the election, three successive days before the election, in not more than two daily newspapers of general circulation published in the City.

97. Form of Ballots.—The Clerk shall cause the ballots to be printed, bound, numbered, endorsed and authenticated, as provided by State law, except as otherwise required in this Charter. The ballots shall contain the list of names and the respective offices, as published in the election notice, and shall be in substantially the following form:

GENERAL (OR SPECIAL) MUNICIPAL ELECTION, CITY OF
COLORADO SPRINGS. (Inserting date thereof.)

INSTRUCTIONS TO VOTERS: To vote, place a cross (X) mark with ink in the circle opposite the name of the candidate for whom you desire to vote. All distinguishing marks are forbidden and make the ballot void. If you wrongly mark, tear or deface this ballot, return it to the Judges of Election and obtain another.

98. Arrangement of Offices on Ballot.—The offices to be filled shall be arranged in separate columns in the following order:

“For Mayor (if any) vote for one,”

“For Councilman (if any) vote for (giving number).”

99. Circle for Placing Cross.—Circles shall be provided at the right of the name of each candidate wherein to place the cross.

100. Blank Spaces for Additional Candidates. Spaces shall be left below the printed names of candidates for each office equal in number to the number to be voted for, wherein the voter may write the names of any person or persons for whom he may wish to vote.

101. Requirements of Ballots.—All ballots printed shall be precisely of the same size, quality, tint of paper, kind of type and color of ink, so that without the number, it would be impossible to distinguish one ballot from another. Space shall be provided on the ballot for Charter amendments or other questions to be voted on at the municipal elections, as provided by this Charter. The names of candidates for each office shall be arranged in alphabetical order. Nothing on the ballot shall be indicative of the source of the candidacy or of the support of any candidate. No ballot shall have printed thereon any party or political designation or mark and there shall not be appended to the name of any candidate any such party or political designation or mark, or anything indicating his views or opinions.

102. Sample Ballots.—The Clerk shall at least five days before the election cause to be printed five hundred sample ballots, upon paper of different color but otherwise identical with the ballot to be used at the election and shall distribute the same upon application to registered voters at his office.

103. First or Primary Election.—In case there is but one person to be elected to an office, the candidate receiving a majority of the votes cast for all the candidates for that office shall be declared elected; in case there are two or more persons to be elected to an office, then those candidates equal in number to the number to be elected, who receive the highest number of votes for such office shall be declared elected; *provided, however*, that no person shall be declared elected to any office at such first election unless the number of votes received by him shall be greater than one-half the number of ballots cast at such election.

104. Second Election.—As to any office not so filled by majority vote, said first election shall be deemed a primary election for the nomination of candidates therefor, and a second election shall be held to fill said office. At said second election the only candidates whose names are printed upon the ballot shall be, if for the office of Mayor, the two persons who at such primary election received the highest number of votes therefor, and, if for the office of Councilman, those persons not exceeding twice the number of the office or offices to be filled, who at such primary election received the highest num-

ber of votes less than a majority for such office; *provided, however*, that any person, who at such primary election received the same number of votes (for such office) as any person so made a candidate for that office, shall also be a candidate therefor at said second election, and that any candidacy at said second election made vacant by death, withdrawal or otherwise shall be filled by selection of the person (or persons if more than one) who at said primary election secured the next highest number of votes less than a majority for said office. At said second election the candidates receiving the highest number of votes shall be declared elected.

105. Date of Second Election.—The said second election, if necessary to be held, shall be held two weeks after the first election.

106. Rules Governing Second Election.—All the provisions and conditions of this Article as to the conduct of an election, so far as they may be applicable, shall govern the second election, except that notice of election shall be published once only, and provided also that the same precincts and polling places shall, if possible, be used.

107. Informalities in Election.—No informalities in conducting municipal elections shall invalidate the same, if they have been conducted fairly and in substantial conformity with the requirements of this Charter.

108. Statement of Expenses to be Filed.—Every candidate who is voted for at any election held within this City shall within thirty days after such election, file an itemized statement showing in detail all the moneys contributed or expended by him directly or indirectly by himself or through any other person in aid of his election. Such statement shall give the names of the various persons who received such money and the specific nature of each item and the purpose for which it was expended or contributed. There shall be attached to each statement an affidavit of such candidate, setting forth in substance that the statement thus made is in all respects true and that the same is a full and detailed statement of all moneys so contributed or expended by him.

109. Corrupt Practices.—Any person who shall, at any municipal election, violate any of the State laws in regard to corrupt practices, or who shall fail to file a sworn statement of expenses as hereinabove required, shall, upon conviction thereof, be forthwith disqualified from holding municipal office, position or employment for a period of two years, and if such person shall have been elected or appointed to any municipal office, position or employment, his conviction of any such violation shall *ipso facto* create a vacancy therein.

Action for the enforcement of this provision may be brought by the City Attorney, or by any citizen, on behalf of the City.

110. Use of Carriages on Day of Election.—No candidate for any elective office shall directly or indirectly use or cause to be used in aid of his candidacy on the day of any municipal election more than one carriage or other vehicle to aid voters to get to the polling

places. Such carriage or other vehicle shall be used to transport only those voters who by reason of illness or other infirmity are unable to go to the polling places unless so transported. Any candidate desiring to use the one carriage or other vehicle above mentioned shall not less than one day prior to the day of election file in the office of the Clerk a statement of such desire on his part which shall contain such a description of the carriage or vehicle he desires to use as will readily identify the same. No other carriage or vehicle than the one so described in the said statement shall be used by the said candidate, or by any committee or association promoting his candidacy for the purpose of conveying voters to the polling places on the day of election.

A violation of any of the provisions of this section by any candidate shall disqualify him from holding the office for which he is a candidate.

Every elective officer of the City shall, at the time he takes the oath of office, be required to take and subscribe an oath that he has not violated any of the provisions of this section.

111. General Election Regulations.—The provisions of any State law now or hereafter in force except as the Council may otherwise by ordinance provide relating to the qualifications and registration of electors, the manner of voting, the duties of election officers, the canvassing of returns, and all other particulars in respect to the management of elections, except as otherwise provided in this Article, so far as they may be applicable, shall govern all municipal elections; provided that the Council shall meet as a canvassing board and duly canvass the election returns within two days after any municipal election.

ARTICLE XIV.

RECALL OF ELECTIVE OFFICERS.

112. Applies to All Elective Officers.—The holder of any elective office may be removed by the qualified electors of the City. The procedure to effect such removal from office shall be as follows:

113. Petition for Recall.—A petition signed by electors qualified to vote for a successor to the incumbent sought to be removed equal in number to at least thirty per centum of the last preceding vote cast for all candidates for Mayor, demanding an election of a successor of said incumbent shall be addressed to the Council and filed with the Clerk. The Council shall provide blank forms for such petitions which shall be kept by and secured from the Clerk. The Clerk, upon issuing such forms to any person, shall enter the name of the person to whom issued, the date of such issuance and the number of such forms issued in a record to be kept in his office for that purpose, and shall certify on each of said forms under his seal, the name of the person to whom issued and the date of the issuance. No petition shall be filed unless it shall bear

such certificate of the Clerk. All petitions shall be returned and filed with the Clerk within thirty days from the issuance of such blank forms. The petition shall contain a specific statement of the grounds upon which the removal is sought. The signatures to the petition need not all be appended to one paper, but each signer shall add to his signature his place of residence, giving the street and number. One of the signers of each such paper shall make oath before an officer competent to administer oaths, that the statements contained therein are true, and that each signature appended to the paper is the genuine signature of the person whose name it purports to be. All papers composing said petition shall be assembled and filed as one instrument, with endorsement thereon of the names and addresses of three persons designated as filing said petition. *Provided*, that prior to the issuance of any blank forms of petition for recall an affidavit shall be made by one or more qualified electors, which affidavit shall state the name of the officer or officers sought to be removed and the ground upon which the removal is sought, and such affidavit shall be filed with the Clerk.

114. Petition May Be Amended or New Petition Made.—Within ten days from the filing of said petition the Clerk shall ascertain by examination thereof and of the registration books and election returns whether the petition is signed by the requisite number of qualified electors, and shall attach thereto his certificate showing the result of such examination. He shall, if necessary, be allowed extra help by the Council.

If his certificate shows the petition to be insufficient, he shall within said ten days so notify in writing one or more of the persons designated on the petition as filing the same; and the petition may be amended at any time within ten days from the filing of the certificate. The Clerk shall within ten days after such amendment make like examination of the amended petition and attach thereto his certificate of the result. If still insufficient, or if no amendment is made, he shall return the petition to one of the persons designated thereon as filing it, without prejudice, however, to the filing of a new petition for the same purpose.

115. Election Under Recall Petition, Unless Officer Resigns.—If the petition or amended petition shall be found and certified by the Clerk to be sufficient, he shall submit the same with his certificate to the Council without delay, and the Council shall, if the officer sought to be removed does not resign within five days thereafter, thereupon order an election to be held on a Tuesday fixed by it, not less than thirty nor more than forty days from the date of the Clerk's certificate that a sufficient petition is filed; *provided, however*, that if any other municipal election is to occur within sixty days from the date of the Clerk's certificate, the Council may, in its discretion, postpone the holding of the removal election to the date of such other municipal election. If vacancy occur in said office after a removal election has been so ordered, the election shall nevertheless proceed as in this Article provided.

116. Candidates—Election.—Any officer sought to be removed may be a candidate to succeed himself, and unless he requests otherwise in writing, the Clerk shall place his name on the official ballot without nomination. The nomination of other candidates, the publication of notice of such removal election and the conduct of the same, shall all be in accord with the provisions of Article XIII hereof, relating to elections. In such removal election the candidate receiving the majority of all votes cast for said office at the first election, or if that prove to be a primary election, then the candidate receiving the highest number of votes at the second election shall be declared elected. Said second election, if necessary, shall be held fourteen days after the first election.

117. Incumbent Removed.—The incumbent shall continue to perform the duties of his office until the removal election. If then elected, he shall continue in office for the balance of his term. If not then elected, he shall be deemed removed upon the qualification of his successor, who shall hold office during the unexpired term. If the successor fail to qualify within ten days after receiving notification of his election, the incumbent shall thereupon be deemed removed and the office vacant. The method of removal by recall herein provided for, shall be cumulative and additional to any method otherwise provided in this Charter.

118. No Recall Petition for First Six Months.—No recall petition shall be filed against any officer until he has actually held his office for at least six months.

119. Incapacity of Recalled Officer.—No person who has been removed from an office by recall, or who has resigned from such office while recall proceedings were pending against him, shall be appointed to any office within one year after such removal by recall or resignation.

ARTICLE XV.

THE INITIATIVE.

120. Direct Legislation.—Any proposed ordinance may be submitted to the Council by petition signed by qualified electors of the City, equal in number to the percentage hereinafter required. The procedure in respect of such petition shall be the same as provided in Sections 113 and 114 of this Charter, with such modifications as the nature of the case requires, except that no blank forms shall be furnished or preliminary affidavit made.

121. Fifteen Per Centum Petition.—If the petition accompanying the proposed ordinance be signed by qualified electors equal in number to fifteen per centum of the last preceding vote cast for all candidates for Mayor, and contains a request that said proposed ordinance be submitted to a vote of the people, if not passed by the Coun-

cil, the Council shall within twenty days after the attachment of the Clerk's certificate of sufficiency to the accompanying petition, either

(a) Pass said ordinance without alteration, (subject to the referendary vote under the provisions of Section 130 of this Charter); or

(b) Call a special election unless a general municipal election is fixed within ninety days thereafter, and at such special or general municipal election said proposed ordinance shall be submitted without alteration to the vote of the qualified electors of the City.

122. Five Per Centum Petition.—If the petition be signed by qualified electors equal in number to at least five per centum but less than fifteen per centum of the last preceding vote cast for all candidates for Mayor, and said proposed ordinance be not passed without alteration by the Council within twenty days, as provided in the preceding section, then such proposed ordinance, without alteration, shall be submitted by the Council to electoral vote at the next general municipal election occurring not less than thirty days thereafter.

123. Publication of Electoral Ordinance.—Whenever any proposed ordinance is required by this Charter to be submitted to the voters of the City at any election, the Council shall cause said proposed ordinance to be published in like manner as other proposed ordinances are required to be published.

124. Election.—The ballots used when voting upon such proposed ordinance shall contain the words: "For the Ordinance" (stating the nature of the proposed ordinance) and "Against the Ordinance" (stating the nature of the proposed ordinance.) If a majority of the qualified electors voting on said proposed ordinance shall vote in favor thereof, the same shall thereupon become an ordinance of the City.

125. Several Ordinances at One Election.—Any number of proposed ordinances may be voted on at the same election, in accordance with the provisions of this Article.

126. Limit to Special Elections.—There shall not be held under this Article of the Charter, more than one special election in any period of twelve months.

127. Repeal of Electoral Ordinance.—The Council may submit a proposition for the repeal or amendment of any ordinance so adopted by electoral vote, to be voted upon at any succeeding general municipal election, and should such proposition so submitted receive a majority of the votes cast thereon at such election, such ordinance shall be repealed or amended accordingly. An ordinance so adopted by electoral vote, cannot be repealed or amended except by electoral vote.

128. Further Regulations.—The Council may, by ordinance, make such further regulations as it may deem necessary to carry out the provisions of this Article.

ARTICLE XVI.

THE REFERENDUM.

129. Mode of Protesting Against Ordinances.—No ordinance passed by the Council shall go into effect before ten days from the time of its final passage, except ordinances making tax levy or appropriation, or in respect of a parking or paving district, and excepting also any ordinance for the immediate preservation of the public peace, health or safety, which contains a statement of its urgency. If, during said ten days, a petition signed by qualified electors of the City equal in number to at least fifteen per centum of the last preceding vote cast for all candidates for Mayor be presented to the Council, protesting against the going into effect of such ordinance, the same shall thereupon be suspended from going into effect, and it shall be the duty of the Council to reconsider such ordinance, and if the same be not entirely repealed, the Council shall submit the ordinance, as is provided in Article XV of this Charter, to a vote of the qualified electors of the City, either at the next general municipal election or at a special election to be called for that purpose, and such ordinance shall not go into effect unless a majority of the qualified electors voting on the same shall vote in favor thereof. The procedure in respect of such petition shall be the same as provided in Sections 113 and 114 of this Charter, with such modifications as the nature of the case requires, except that no blank forms shall be furnished or preliminary affidavit made.

130. Reference by the Council.—The Council may, of its own motion, submit to electoral vote for adoption or rejection at a general or special municipal election any proposed ordinance or measure in the same manner and with the same force and effect as is provided in Article XV. If the provisions of two or more proposed ordinances or measures adopted or approved at the same election conflict, then the ordinance or measure receiving the highest affirmative vote shall control.

131. Further Regulations.—The Council may, by ordinance, make such further regulations as it may deem necessary to carry out the provisions of this Article.

ARTICLE XVII.

OFFICERS, EMPLOYEES AND SALARIES.

132. Officers—Employees.—The Mayor, Councilmen and Police Magistrate shall be the officers of the City. All other persons in the service of the City, or of any commission or board thereof, are hereby declared to be employees. Except as herein otherwise provided the Council shall by ordinance fix the compensation of salaried employees, and until such compensation has been fixed by ordinance, as aforesaid, the same shall remain as now provided.

133. Office Hours.—It shall be the duty of the Mayor and each Councilman to maintain regular office hours at the City Hall.

134. Salary of Mayor.—The salary of the Mayor shall be Thirty-six Hundred Dollars (\$3,600.00) per annum, of which Eighteen Hundred Dollars (\$1,800.00) shall be charged to the Department of Water and Water Works. Said salary shall be payable in equal monthly installments.

135. Salary of Councilmen.—The salary of each Councilman shall be Two Thousand Dollars (\$2,000.00) per annum, payable in equal monthly installments.

136. Removal Terminates Salary.—In case of removal of any officer or employe his right to salary shall thereupon cease.

137. Appointment of Clerk and Attorney.—A City Clerk shall be appointed by the Council. A City Attorney shall be appointed by the Mayor, subject to confirmation by the Council.

138. Treasurer—Auditor.—The positions of Treasurer and Auditor shall continue with the powers, duties and compensation as now established by law, subject to the provisions of this Charter, until the Council shall by ordinance otherwise provide.

139. Oaths.—Every officer shall, before he enters upon the duties of his office, take, subscribe and file with the Clerk an oath or affirmation to support the Constitution of the United States and the Constitution of the State of Colorado, and to faithfully perform the duties of the office upon which he shall be about to enter.

140. Bonds.—If any officer or employe is required by law or by ordinance to give bond, he shall not be deemed qualified for his office or employment until such bond has been duly approved and filed.

All such bonds must be approved by the Mayor, who shall have the custody thereof.

A reasonable charge by a Surety Company for qualifying upon such bond shall, when approved by the Mayor, be paid by the City.

141. Receive No Commissions, Profits, Free Tickets, Etc.—No officer or employe shall receive any commission, money or thing of value, or derive any profit, benefit or advantage, direct or indirect, from or by reason of any dealings with or services for the City by himself or by others, or from or by reason of any alterations, improvements or repairs required by authority of the City, except his lawful compensation as such officer or employe, and his share of the public benefit.

No officer or employe shall accept, directly or indirectly, from the holder of any public utility franchise in the City, any frank, free ticket, free service, or other service upon terms more favorable than those granted to the public generally. This prohibition shall

not extend to transportation of firemen and policemen in uniform while in actual discharge of their duties.

Violation of this section shall be a misdemeanor and a ground for removal.

142. Religious or Political Opinions Not Affect Appointment.—

No appointment to position under the City government shall be made or be withheld by reason of any religious or political opinions or affiliations or political services, and no appointment to or selection for or removal from any office or employment, and no transfer, promotion, reduction, reward or punishment shall be in any manner affected by such opinions, affiliations or services.

143. Official Books, Records, Etc.—(a) All books, records and papers of every office, department, board or commission are City property and must be kept as such by the proper officers or employes during their continuance in office and then delivered to their successors, who shall give duplicate receipts therefor, one of which shall be filed with the Clerk. The failure to deliver such books, records and papers shall be a misdemeanor.

(b) Certified copies or extracts from the books, records and files shall be given by the officer, board, commission or employe having the same in custody, to any person demanding the same and paying for such copies or extracts, but the records of the Police Department shall not be subject to inspection or copy without permission of the Mayor.

(c) All equipments, collections, models, materials, instruments, tools and implements which are collected, maintained, used or kept by the City or by any department, board or commission, shall be City property, and be duly turned over by the custodian thereof to his successor, or duly accounted for.

144. Payment of Debts.—Failure of any officer or employe to promptly pay any indebtedness contracted by him while in the service of the City shall be ground for his removal.

145. Attend to Duties.—All persons holding any office or employment under the City, whether elective or appointive, shall be required to engage in the actual work of the office or employment so held, to the extent that their services may be necessary for the full and complete discharge of the duties of said office or employment, and a failure so to do shall be ground for removal.

CITY ATTORNEY.

146. Duties.—The City Attorney shall conduct all cases in Court in this State wherein the City shall be party plaintiff or defendant, or a party in interest. He shall be the legal adviser of the Mayor, Council, Commissions, and heads of departments, in relation to their duties, and shall perform such other duties, not inconsistent herewith, as may be required of him by ordinance. He shall receive such salary as the Council by ordinance shall prescribe.

147. Assistants.—The attorney, with the consent of the Council, may employ an assistant, who shall receive such salary as the Council by ordinance shall prescribe.

The Council may also, at any time, employ other counsel, to take charge of any litigation or to assist the attorney, whose compensation shall be fixed by the Council at the time of employment.

ARTICLE XVIII.

CIVIL SERVICE.

148. Commission.—There is hereby established a Civil Service Commission consisting of three members who shall serve without compensation.

The Council first elected after the adoption of this Charter shall, as soon as practicable thereafter, appoint one member of said Commission to serve for two years, another member to serve for four years and a third member to serve for six years. Biennially thereafter, one member shall be appointed by the Council to take the place of the member whose term shall next expire, so that one member shall be appointed every two years to serve for a period of six years. If a vacancy shall occur in the Commission, it shall be filled by appointment by the Council for the unexpired term.

149. Commission Make Rules.—The Commission shall, with the approval of the Council, make such rules and regulations for the proper conduct of its business, as it shall find necessary or expedient. The Commission shall, among other things, provide for the classification of all employments in the Department of Public Safety and in the Department of Public Works and Property, for open, competitive and free examinations as to fitness; for an eligible list from which vacancies shall be filled; for a period of probation before employment is made permanent; and for promotion on the basis of merit, experience and record.

150. Council Give Further Powers.—The Council whenever requested by the Commission may by ordinance confer upon the Commission such other or further rights, duties and privileges as may be necessary adequately to enforce and carry out the principles of Civil Service.

ARTICLE XIX.

GENERAL PROVISIONS.

151. Present Form of Government Continue Until.—Except as otherwise in this Article provided, the form of government existing in the City of Colorado Springs at the time of the adoption of this Charter shall continue unaltered, and all officers and other persons in the service of the City at the time this Charter takes effect, shall continue to serve as such and to receive the compensation therefor now provided by law or by ordinance, and to have and exercise the powers, authority and jurisdiction theretofore possessed by them respect-

ively, until the elective officers first elected hereunder shall have qualified. Upon such qualification of said elective officers hereunder, the term of office of every officer or other person in the service of the City at the time this Charter takes effect shall immediately cease and determine. Thereafter all of said officers (except the Mayor and aldermen) and all of said other persons in the service of the City at the time this Charter takes effect shall continue to draw compensation at the same rate, and to exercise like powers, authority and jurisdiction as theretofore, until replaced, or until the Council shall otherwise provide.

152. Duty of Present Officers as to Elections.—It shall be the duty of the Mayor, the City Council and the City Clerk in office when this Charter takes effect, to comply with all requirements of Article XIII of this Charter relating to Elections, to the end that all things may be done necessary to the nomination and election of the officers first to be elected under this Charter.

153. Present Ordinances Continue in Force.—All laws, ordinances, resolutions, by-laws, orders, rules, or regulations in force in the City of Colorado Springs at the time this Charter takes effect, and not inconsistent with the provisions of this Charter, whether enacted by the authority of the City or by any other authority, shall continue in full force and effect, until the Council otherwise by ordinance provides, notwithstanding any change of organization effected by this Charter.

154. Penalty for Violation.—Any person who shall violate any of the provisions of this Charter for the violation of which no punishment has been provided herein, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not exceeding one hundred dollars (\$100) or by imprisonment in the City jail not exceeding three (3) months, or by both such fine and imprisonment.

155. Definition of Misdemeanor.—The term "misdemeanor" as used in this Charter, shall mean a violation thereof, or of any ordinance, of which the Police Court or Magistrate shall have jurisdiction, and shall not have the meaning attached to it in Chapter XXXV entitled "Crimes," Revised Statutes of Colorado, 1908.

156. Continuing Bonds, Etc.—All official bonds, recognizances, obligations, contracts and all other instruments entered into or executed by or to the City before this Charter takes effect, and all taxes, fines, penalties and forfeitures due or owing to the City, and all writs, prosecutions, actions and causes of action, except as herein otherwise provided, shall continue and remain unaffected by this Charter.

157. Submission of Charter Amendments.—Nothing herein contained shall be construed as preventing the submission to the people of more than one Charter amendment or measure at any one election.

158. Reservation of Power.—The power to supersede any law of this State, now or hereafter in force, insofar as it applies to local or municipal matters, shall be reserved to the City, acting by ordinance.

DONE IN CONVENTION, at the Council Chamber in the City Hall in the City of Colorado Springs, Colorado, this twentieth day of March, in the year of our Lord one thousand nine hundred and nine, and of the Independence of the United States of America the one hundred and thirty-third.

IN WITNESS WHEREOF, We have hereunto subscribed our names.

HARRY H. SELDOMRIDGE,
President.

JAMES J. EUBANK,
Vice-President.

EDWARD C. SHARER,
Secretary.

WILLIAM M. BANNING,

JACOB BISHOFF,

WILLARD N. BURGESS,

FRANK F. CASTELLO,

WILLIAM J. CHINN,

THOS. J. FISHER,

JOSEPH B. FOWLER,

M. C. GILE,

OLIVER P. GRIMES,

HENRY C. HALL,

JOHN M. HARNAN,

HENRY W. HOAGLAND,

P. M. KISTLER,

HORACE G. LUNT,

THOMAS F. McCAFFERY,

MYER S. RAFIELD,

WILLIAM H. SPURGEON,

EDGAR J. ULLRICH.



W. H. Carey

CHARTER
OF THE
CITY OF DALLAS

1907

CHARTER OF THE CITY OF DALLAS

1907

S. B. No. 316.

An Act to grant a new charter to the City of Dallas, Dallas County, Texas; repealing all laws or parts of laws in conflict herewith, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

ARTICLE I.

INCORPORATION AND TERRITORY.

SECTION 1. *Corporate Name.* All inhabitants of the City of Dallas, Dallas County, Texas, as the boundaries and limits of said city are herein established or may be hereafter established, shall be a body politic, incorporated under, and to be known by, the name and style of the "City of Dallas," with such powers, rights and duties as herein provided.

SEC. 2. *Boundaries.* The bounds and limits of the City of Dallas are hereby established and described as follows: Beginning at the south corner of the A. C. McDaniel survey in Dallas County, Texas, at low water mark of the Trinity River, on the east bank thereof; thence northeast with the southeast line of said McDaniel survey to the west line of Edgar Street; thence northwest with the S. W. line of Edgar Street, 25 feet, corner thereon at a point which would be the intersection of the northwest line of Romine Avenue if extended across Edgar Street; thence northeast with said northwest line of Romine Avenue to a point thereon 132 1-2 feet southwest from the southwest line of Colonial Avenue; thence southeast parallel to said line of Colonial Avenue to corner on the northwest line of Hickman Avenue; thence southwest with said line of Hickman Avenue 79 1-2 feet to corner thereon; thence southeast 180 feet; thence northeast parallel to said line of Romine Avenue 242 feet to a point which would be the center of said Colonial Avenue if extended southeast from Hickman Avenue; thence northwest with said center line of said Colonial Avenue if extended 140 feet to the said southeast line of said Hickman Avenue; thence northeast with said line of Hickman Avenue 30 feet to corner thereon, at a point where the northeast line of Colonial Avenue would intersect if extended across Hickman Avenue; thence northwest with said line of Colonial Avenue, extended and with said line of Colonial Avenue to corner on the said southeast line of said McDaniel survey; thence northeast with said line of said McDaniel survey to corner on the northeast line of the right of way of the Houston & Texas Central Railroad; thence north 36 west with said line of said right of way to the northwest line of Lenway (Holman) Avenue; thence northeast, with said line of Lenway (Holman) Avenue to the southwest line of South Camp Street; thence northwest

with said line of South Camp Street to the southwest line of Warren Avenue; thence northeast with said line of Warren Avenue to the northwest line of the Winchester Place addition, the east end of said Warren Avenue, and continue on same course to the northeast line of Trunk Avenue, the same being the southwest line of block 1387; thence southeast with said line of Trunk Avenue to the southeast line of Dallas Avenue; thence northeast with said line of Dallas Avenue to the southwest line of Second Street; thence northwest with said line of Second Street to the northwest line of Julius Street; thence northeast with said line of Julius Street to the northeast line of First Street, the same being on the southwest line of block No. 1436; thence southeast with said line of First Street to the south corner of said block No. 1436; thence northeast with the southeast line of said block No. 1436 and a continuation thereof to the east corner of block No. 1436 on the southwest line of block No. 1435; thence southeast with said line of said block No. 1435, about 90 feet to the south corner of same; thence northeast with the southeast line of said block No. 1435, and a continuation thereof to the north line of the Texas & Pacific Railroad right of way; thence eastwardly along said right of way about 863 feet to the northwest line of Du Pree Street to the southeast corner of block No. 1448; thence northwestwardly along said line of Du Pree Street and along the east line of block 1448, and the east line of block No. 1447 and a continuation thereof to the north line of Forney Avenue (and known as the Kaufman Road) the same being the south line of Rowan's Addition; thence eastwardly along said line of said Avenue to the southeast corner of said Rowan's Addition; thence northwest along the northeast line of said Rowan's Addition, and a continuation thereof to the northwest line of Orphan Avenue, the same being on the southeast line of R. D. Caldwell's Addition; thence northeast along said line of Orphan Avenue and said line of said Caldwell's addition, to the east corner thereof, on the southwest line of Henderson Avenue; thence northwest along said line of Henderson Avenue and along the northeast line of said Caldwell's Addition and a continuation thereof to the corner of the northwest line of the right of way of the Gulf, Colorado & Santa Fe Railroad; thence northeast along said line of said right of way to the southwest line of Beacon Street; thence northwest with said line of Beacon Street to the southeast line of Columbia Avenue; thence northeast with line of Columbia Avenue to a corner thereon 118 feet northeast of the northeast line of Fulton Street; thence northwest parallel to Henderson Avenue to corner on the northwest line of Reiger Avenue as platted in Junius Heights Addition; thence southwesterly with said line of Reiger Avenue and said line extended to the northeast line of Augusta Street; thence northwest with said line of Augusta Street if extended to the south line of Gaston Avenue as extended in Munger Place Addition; thence southwest with the south line of Gaston Avenue to the south line of Munger Boulevard; thence northwest along said south line of Munger Boulevard to the west angle of the intersection of Bryan Street and Greenville Avenue; thence north with said west line of Greenville Avenue to a point thereon west from the southwest corner of the Alta Vista Addition; thence east crossing Greenville Avenue and continuing same course along the south line of said Alta Vista Addition to the southeast corner of same; thence north along the east line of said Alta Vista

Addition to the northeast corner thereof; thence west along the north line of said addition to west line of Hubert Street; thence north along the west line of Hubert Street to the south line of Lewis Street; thence west along south line of Lewis street, and continuing along the south line of Taylor Street to Bowles Avenue (now Henderson Avenue); thence northwest with said line of Bowles Avenue (now Henderson Avenue) to the southwest line of street known as Juliette (or Monarch) Street; thence southwest with said line of Juliette Street to the northeast line of Woodland Avenue; thence northwest with said line of Woodland Avenue to a point about 27 feet north, 20 feet east from the north corner of Fake's Park Place Addition; thence southweswardly to said corner of said Fake's Park Place Addition, and continuing same course along the northwest line of said Fake's Addition, and along the northwest line of Alexander's Park Addition to the west corner thereof on the northeast line of Carroll Avenue; thence Northwest with said line of Carroll Avenue if extended to a point thereon where the said line of Carroll Avenue so extended would intersect the southeast line of Weldon Street if extended; thence southwesterly along the said south line of Weldon Street, if so extended to the northeast line of Haskell Avenue; thence northwest with said northeast line of Haskell Avenue and a continuation thereof to the southeast line of Cole Avenue; thence northeast and northeasterly with said line of Cole Avenue to a point thereon 60 feet at right angles across said Cole Avenue from the east corner of a 58 1-2 by 185 foot lot in name of O. E. Bateman in block No. 987; thence northwesterly at right angles across said Cole Avenue to said east corner of said Bateman's lot and continuing same course along the northeast line of said 58 1-2 by 185 foot lot to the north corner of same on the southeast line of an alley in said block No. 987. Thence southwesterly along said line of said alley 58 1-2 feet to the west corner of said Bateman lot; thence northwesterly at right angles to said alley to the southeast line of Travis Avenue; thence southwesterly and southwest with said line of said Travis Avenue to a point thereon which would be at the intersection of the southwest line of Quick Street, if extended southeast across Travis Avenue; thence northwest with said southwest line of Quick Street, extended and with said southwest line of Quick Street to the center of Turtle Creek; thence in a northerly direction up Turtle Creek with its meanders to corner therein the northeast corner of lot No. 3 of Cole's subdivision of 199 acres of the William Grigsby survey; thence west along the lines between lots 3 and 4 of said subdivision and a continuation thereof to the northeast line of Bowser and Lemon's Oak Lawn Addition on the southwest line of said Quick Street; thence southeast with said line of Quick Street to the northwest line of Argyle Avenue; thence southwest along the northwest line of Argyle Avenue to the northeast line of Lemon Avenue; thence northwest with said line of Lemon Avenue to the northwest line of Douglas Street; thence southwest with said line of Douglas Street and a continuation thereof to the southwest line of Cedar Springs Avenue; thence southeast with said line of Cedar Springs Avenue to the northwest line of Pendleton Avenue (formerly Douglas Street); thence southwest with said line of Pendleton Avenue (formerly Douglas Street) and a continuation thereof to the southwest line of Routh Street; thence southeast with said line of Routh Street to the northwest line of Throckmorton Street; thence southwest

with said line of Throckmorton Street to the southwest line of Maple Avenue; thence southeast with said line of Maple Avenue to the north corner of the City's Parkland Hospital tract of land; thence southwest with the northwest line of said hospital tract of land and a continuation thereof to the southwest line of the J. A. Sylvester survey; thence southeast along the southwest line of said Sylvester survey to low water mark on the southeast bank of the Trinity River; thence down said river with the meanders of low water mark on the east bank of same to the south line of Commerce Street; thence westwardly crossing said river and continuing same course along the south line of the Fort Worth Pike to the east line of Beckley Avenue; thence south with and along the east line of Beckley Avenue to a point thereon 180 feet north from the north line of Okenwald Street; thence west 985 feet to a corner, the same being an original corner of the City of Oak Cliff; thence south with a west line of said Oak Cliff boundary to the intersection of same with the east line of Haynes Avenue; thence southwesterly with said line of Haynes Avenue to the north line of Fifth Street; thence west along said line of Fifth Street to the west line of Cedar Hill Avenue; thence north along the said line of Cedar Hill Avenue 470 feet to corner thereon; thence west 300 feet; thence south and southwesterly parallel to and 300 feet from the west line of said Cedar Hill Avenue to the north line of Davis Street (also known as Arthur Avenue); thence west with said line of Davis Street to a point thereon north from the northwest corner of the Midway Addition; thence south crossing said Davis Street along the west line of the said Midway Addition to a southwest corner thereof; thence east along a northern south line of said addition, and a continuation thereof to the east line of Edgefield Avenue; thence south along said line of Edgefield Avenue to the Southwest corner of block 253-3312, the same being the southern southwest corner of the Midway Addition; thence east to the southeast corner of block No. 140-3199; thence north with the west line of Llewellyn Street about 50 feet to a point thereon at which the south line of the Catholic Orphan Home grounds would intersect if extended west; thence east across said Llewellyn Street and along the south line of said Catholic Orphan Home grounds to the southeast corner thereof; thence north about 30 feet to a point on the west line of Adams Avenue, at which the said line of block 72-3193 would intersect if extended west; thence east across Adams Avenue to the southwest corner of said block, and continuing same course along the south line of the Dallas Land and Loan Company's second addition, and a continuation thereof to the east line of Beckley Avenue; thence south along said line of Beckley Avenue to the south line of the W. H. Hord survey; thence east along the south line of said Hord survey to the east line of Ewing Avenue; thence south with said line of Ewing Avenue 439 feet; thence east 397 feet to the west line of a street; thence north 439 feet to the said south line of said Hord survey; thence east with said line of said survey to the southeast corner of same; thence north with the east line of said Hord's survey to the center of the channel of Cedar Creek; thence northeasterly down said creek with the meanders of same to corner therein on the west line of the Gaston road; thence north with said line of said Gaston road to the southwest line of the Hutchins road; thence northwesterly with said line of said Hutchins road and a continuation thereof to the west

line of Miller Avenue; thence north with said line of Miller Avenue to the north line of (First Street) Brazos Street; thence east about 30 feet to the west line of W. S. Beaty survey; thence north with the said line of said Beaty survey and a continuation thereof to the low water mark on the east bank of said Trinity River; thence southeasterly down said river with the meanders of said low water mark to the place of beginning.

SEC. 3. *Platting of Property.* Should any property lying within the city limits as established by this act be hereafter platted into blocks and lots, then and in that event the owners of said property shall plat and lay the same off to conform to the streets and lots abutting on same, and shall file with the city engineer a correct map of same; provided, that in no case shall the City of Dallas be required to pay for any of said streets at whatever date opened, but when opened by reason of the platting of said property at whatever date platted, they shall become by such act the property of the City of Dallas for use as public highways, and may be cared for as such.

SEC. 4. *Additional Territory.* Any territory adjoining the present or future boundaries of said city may from time to time, in any size or shape desired, be admitted and become a part thereof on application made or written consent given to the city council by the owner or owners of the land, or, as the case may be, by a majority of the legal voters resident on the land sought to be added. In all such cases the territory so added shall be described by metes and bounds, in an ordinance accepting, assenting and adding the same to the municipal corporation; and thereafter the inhabitants of said added territory shall in all respects be on an equal footing with the inhabitants of the original municipal territory.

ARTICLE II.

POWERS OF THE CITY.

SECTION 1. *General Powers.* 1. The City of Dallas made a body politic and corporate by this act shall have perpetual succession, may use a common seal, may sue and be sued, may contract and be contracted with, implead and be impleaded in all courts and places, and in all matters whatever, may take, hold and purchase lands as may be needed for the corporate purposes of said city, and may sell any real estate or personal property owned by it; perform and render all public services, and, when deemed expedient, may condemn property for public use, within or without the city; and may hold, manage and control the same; such condemnation proceedings to be governed and controlled by the law now in force in reference to the condemnation of the right of way of railroad companies and the assessment of damages therefor, and shall be subject to all the duties and obligations now pertaining to or incumbent upon said city, as a corporation, not in conflict with the provisions of this act, and shall enjoy all the rights, immunities, powers, privileges and franchises now possessed and enjoyed by said city and herein granted and conferred.

2. The City of Dallas shall have power to enact and to enforce ordinances necessary to protect health, life and property and to prevent and summarily abate and remove nuisances, and to preserve and enforce the good government, order and security of the city and its inhabitants; to protect the lives, health and property of the inhabitants of said city, and to enact and enforce any and all ordinances upon any subject; pro-

vided, that no ordinance shall be enacted inconsistent either with the laws of the State of Texas, or inconsistent with the provisions of this act; and provided futher, that the specification of particular powers herein authorized shall never be construed as a limitation upon the general powers herein granted, it being intended by this act to grant to and bestow upon the inhabitants of the City of Dallas full power of self-government, and it shall have and exercise all powers of municipal government not prohibited to it by this charter, or by some general law of the State of Texas, or by the provisions of the Constitution of the State of Texas.

3. All real estate owned in fee simple title, or held by lease, sufferance easement or otherwise; all public buildings, market houses, school buildings, school houses, fire engine stations, public squares, parks, streets, alleys and all property of whatever kind, character and description which has been granted, donated, purchased, or otherwise acquired by the City of Dallas through any means or agency, and all causes of action, choses in action, rights or privileges of every kind and character, and all property of whatsoever character or description which may have been held, and is now held, controlled or used by said City of Dallas for public uses or in trust for the public shall vest in, and remain in and inure to, the said corporation, the City of Dallas, under this act; and all suits and pending actions to which the City of Dallas heretofore was, or now is a party, plaintiff or defendant, shall in no wise be affected or terminated by the provisions of this act, but shall continue unabated.

SEC. 2. *Revenue.* 1. The City of Dallas shall have power, and is hereby authorized annually to levy and collect taxes not exceeding one and one-half per centum of the assessed value of all real and personal property in the city not exempt from taxation by the Constitution and laws of the State. Provided, that the city shall have the power to levy and collect an additional tax of one per cent, or any fraction thereof, on the assessed value of all taxable property, real and personal, in said city, not exempt as aforesaid, if a majority of those authorized to vote on the assumption of debt by Section 3, Article VI, of the State Constitution, shall have first voted in favor of such levy at an election duly ordered for such purpose, the whole number of votes to be determined by the number voting upon such subject at such election.

2. In accordance with Section 10, Article XI, of the State Constitution the City of Dallas may levy a special tax for one or more years for the purchase of ground, erection of buildings, and the support and maintenance of a seminary, academy, or high school, in connection with the public schools of the city, and may also levy a special tax in accordance with the State law, for the purpose of erecting additional public school houses or repairing those already built, or for the purchase of grounds therefor. The funds so raised shall be appropriated exclusively for the purpose named, and shall not be diverted therefrom. The aggregate tax levied for either or all of said purposes in any one year, shall never exceed one-fourth of one per cent, ad valorem, on the taxable value of all property in city. No such tax shall be levied until the question shall have been submitted to a vote of the taxpayers, at an election, by those entitled to vote thereon under the Constitution of the State. Such election shall be ordered by resolution of the Board of Commissioners, as in other elections.

3. The City of Dallas shall have power to levy and annually collect

taxes, known as occupation taxes (except in cases where the laws of the State now in force prohibit the levy of occupation taxes by cities and counties), upon professions, callings and other business carried on, and upon carriages, hacks, coaches, buggies, drays, carts, wagons and all other vehicles used in the city for public use. Each and every person or firm, except where the levy of such occupation tax is prohibited by the general laws of the State, or upon which the State levies no occupation tax, engaged in the following professions, callings, and business, among others, shall be liable to pay such tax; but this enumeration shall not be considered as depriving the city of the right and power to levy and collect other occupation taxes under the general authority herein granted from other persons upon whom an occupation tax is levied by the general laws of the State. Every person or firm engaged in selling goods, wares and merchandise, liquors in quantities less than a quart, or in keeping any grog shop, tippling house, bar-room, drinking saloon, or any place where spirituous, vinous or malt liquors, wine or beer, are sold in quantities less than a quart; every person or firm keeping a billiard table, ball alley, nine or ten pin alley, or any similar game, or keeping a tavern, hotel or boarding house, restaurant, lunch stand, or place of any kind where refreshments are sold; every person or firm keeping a livery stable, sales stable, feed stable, or wagon yard; every person or firm selling goods, wares, or merchandise at public auction or pursuing the occupation of real estate agent, merchandise or cotton broker, commission merchant or broker of any kind, or hawker or peddler of any goods whatever; every person or firm keeping a storage or warehouse, or intelligence office, or brewery or beer shop, distillery or fruit stand, or engaged in compressing cotton; every insurance agent, and every insurance company shall pay said tax, and every agent representing any such company who has failed to pay said tax, shall be subject to a fine; every telegraph, telephone, electric light, gas or other such company; every person or firm keeping a lumber, wood or coal yard, or any place for the sale of such articles, or building material of any kind; and all other persons or firms engaged in any profession, occupation, business, avocation or calling, subject to occupation tax by law of the State, shall pay on each; and no license tax shall extend to more than one establishment or include more than one avocation, occupation, business or calling. The power herein granted to levy and collect occupation taxes shall not be deemed to prohibit the imposing and collection of license fees on any business, calling or occupation upon which the city is authorized to impose a license by any provision of this charter.

4. The City of Dallas shall have power to assess the property and shares of corporations, companies, banks and such other institutions as the same are now or may be assessed by the State law in such cases made and provided, which shall be cumulative of all provisions of this act, and shall have full power to enforce the collection of such taxes in such manner as may be provided for herein and as by said Commission may be deemed necessary.

5. The City of Dallas shall have the right and power to borrow money on the credit of the city for permanent public improvements, and to issue bonds of the city therefor, to bear interest not to exceed 6 per cent per annum, payable semi-annually, at such places as may be designated; provided, that the total indebtedness of the city of every kind and char-

acter whatsoever, shall never exceed the sum of five millions of dollars (\$5,000,000) and any issue of bonds which would, when added to the indebtedness of the city existing at the time increase the total indebtedness of the city beyond said amount of \$5,000,000 shall be wholly void as to such excess.

Any proposition to issue new or additional bonds, as authorized herein, as well as the amounts of such issuance and the purposes of the same, shall be first submitted to a vote of the qualified voters of the city, who are property taxpayers in said city, at an election to be held for that purpose. The time, place and manner of said election and the making of the returns and declaring the results thereof shall be prescribed by ordinance as nearly in accord with the laws regulating city elections as may be practicable, and unless a majority of the qualified taxpayers voting thereon in such election are in favor of the issuance of such bonds, the same shall not be issued, provided, that the purpose of the issuance of bonds, as submitted at such an election, may include more than one object. After an issue of bonds has been ordered the Commission, however, shall have power to issue serial bonds, or otherwise, as in their opinion may seem best. All bonds shall specify on their face for what purpose they are issued, and shall not be invalid if sold for less than their par value, and when any bonds are issued by the city, a fund shall be provided to pay the interest and create a sinking fund sufficient to pay the bonds at maturity; and said sinking fund shall be invested in bonds of the State of Texas, or in bonds issued by the counties in the State of Texas, or in bonds of the United States, or in bonds of the City of Dallas, which are not yet due; provided, that in the event it shall be deemed expedient to issue serial bonds payable in equal annual installments, it shall be sufficient to provide for the payment of interest thereon and the annual installments as they mature.

6. Any officer of the city who shall wilfully or knowingly divert, or use any sinking fund for any other purpose except that for which the fund is created, or is herein expressly authorized, shall be deemed guilty of a felony and subject to prosecution, as provided under the general laws of the State for the diversion and conversion of funds belonging to any of the municipalities of said State.

7. All bonds shall be signed by the Mayor, countersigned by the Auditor, and sealed with the seal of the city, and shall be payable at such times as may be fixed not more than forty years from their date.

8. It shall be the duty of the Mayor when such bonds are issued, to forward the same to the Comptroller of the State, whose duty it shall be to submit the same, together with all information he may have relating thereto, to the Attorney General, and if the Attorney General shall find that such bonds have been issued in accordance with law, he shall endorse his approval thereon and return the same to the Comptroller who shall register such bonds in a book kept for that purpose, and endorse on each bond so registered his certificate of registration, and at the Mayor's request certify the amount of bonds so registered in his office up to date.

9. It shall be the duty of the Mayor at the time of forwarding said bonds for registration, to furnish the Comptroller with a statement of the amount of all taxable property, real and personal, in the city; also with a statement of the amount of tax levied for the payment of inter-

est and to create a sinking fund. It is hereby made the duty of the Comptroller to see that a tax is levied and collected by the city sufficient to pay the interest semi-annually on all bonds and create a sinking fund sufficient to pay said bonds at maturity, and see that said sinking fund is annually invested in good interest-bearing securities or applied to the redemption of the bonds for which it was set aside.

SEC. 3. *Police Powers.* The City of Dallas shall have power, by ordinance duly passed:

To establish and maintain a City Police Department, prescribe the duties of policemen, and regulate their conduct.

2. To permit, forbid or regulate theaters, balls, dance houses and other public amusements, and to suppress the same whenever the preservation of order, tranquility, public safety or good morals may demand.

3. To regulate dram shops, drinking saloons and other places where intoxicating liquors are sold, to cancel licenses therefor for cause, and to close variety theaters when necessary, expedient or advisable.

4. To prohibit and punish keepers and inmates of bawdy houses and variety shows; to prevent and suppress assignation houses and houses of ill fame, and to regulate, colonize and segregate the same, to determine such inmates and keepers to be vagrants, and provide for the punishment of such persons.

5. To inspect weights and measures, fix standards of weights and measures, and to fix penalties for not using or conforming to the same, and to provide that inspection fees may be fixed by ordinance.

6. To make all needful and proper regulations concerning keepers of taverns and grog shops and other public houses, draymen, horse drivers, water carriers, omnibus drivers, hack drivers and drivers of baggage wagons, and other vehicles; to establish maximum rates for all kinds of transportation within the city limits, to prevent extortion, and to preserve order and prevent noise and confusion in and about the several depots on the arrival and departure of railway trains, and to provide how and where hacks or other carriers shall stand or take their position upon the streets adjacent or near to said depots, and where they shall stand when not receiving or discharging passengers.

7. To suppress gambling houses, and to punish keepers of gambling houses and pool sellers, and all persons who play cards or games of chance of any kind, and to punish persons who sell lottery tickets or who advertise lottery drawings or schemes and results of drawings of lotteries.

8. To provide for the regulation of bakers and to prescribe the weight, quality and price for bread manufactured or sold in the City of Dallas, according to the price of the material or otherwise, and to provide for the inspection of milch cows, whether kept within the city, or without the city limits, from which milk is sold within the city, and to provide for the inspection of the milk offered for sale, and to prescribe the fees to be charged therefor.

9. To establish and regulate public grounds, and to regulate and restrain and prohibit the running at large of horses, mules, cattle, sheep, swine, goats, geese and pigeons, and to authorize the distraining, impounding and sale of the same for the cost of the proceedings and the penalty incurred, and to order their destruction when they can not be

sold, and to impose penalties upon the owners thereof for the violation of any ordinances regulating or prohibiting the same.

10. To tax, regulate, restrain and prohibit the running at large of dogs, and to authorize their destruction when at large contrary to ordinances, and to impose penalties upon the owners or keepers thereof.

11. To prohibit and restrain or regulate the rolling of hoops, the flying of kites and firing of fire crackers, the use of velocipedes and bicycles, and the use of any pyrotechnic or any other amusement or practices tending to annoy persons passing upon the streets or sidewalks, or to frighten horses and teams.

12. To restrain and prohibit the ringing of bells or blowing of horns, bugles and whistles, crying of goods, and all other noises, practices and performances tending to the collection of persons in the streets or sidewalks by auctioneers and others for the purpose of business, amusements, or otherwise.

13. To prohibit mendicants, beggars or persons of infirm or maimed bodies, or suffering with diseases of any kind, from soliciting alms, help or assistance upon the streets or sidewalks of said city, and to prescribe a penalty by fine for a non-observance thereof.

14. To prohibit and regulate the ringing of bells and blowing of whistles of railroad engines or locomotives within the city limits, and to regulate the speed thereof.

15. To regulate and control the driving of cattle, horses and all other animals into or through the city.

16. To prevent all trespasses and breaches of the peace and good order, assault and batteries, fighting, quarreling, using abusive, profane and insulting language, misdemeanors and all disorderly conduct and to punish all persons thus offending.

17. To prevent and punish the keepers of houses in which loud or immoral theatrical representations are given, and to adopt summary measures for the removal or suppression of all such establishments.

18. To require, on due notice, all steam or street railway companies owning tracks within the city limits, upon the public streets or highways of said city, which may have been or may hereafter be abandoned by said companies by non-use, to remove such tracks and to restore at their own expense the street or way upon which such abandoned track is located to its former condition.

19. To prohibit, prevent and suppress horse racing, immoderate riding and driving in the streets of said city.

20. To prohibit cruel treatment of animals and to punish the abusers of animals.

21. To compel persons to fasten their horses or other animals attached to vehicles, or otherwise hitched, or standing in the streets.

22. To restrain and punish vagrants, medlicants, beggars and prostitutes.

23. To regulate and control the sale, gift, barter or exchange of cocaine, opium, morphine and the salts thereof.

24. To license, tax and regulate merchants, commission merchants, hotel and inn keepers, drinking houses or saloons, bar-rooms, beer saloons and all places or establishments where intoxicating or fermented liquors are sold; brokers, money brokers, real estate agents, insurance agents, insurance brokers, auctioneers, and all other trades, professions, occupa-

tions and callings of every kind. To license and regulate any itinerant or transient vendor of clothing or wearing apparel or article of bedding or merchandise of any description whatever, ticket brokers or scalpers or dealers in railway tickets, dealers in bankrupt or fire stocks, or damaged stocks of any kind, second hand dealers, pawn brokers, junk shops and dealers in junks, and all other business or occupations whatever, which in the opinion of the Board of Commissioners shall be the proper subject of police regulations. To require the person or persons or corporation pursuing any business or occupation mentioned in this section to give all bonds in such amounts and under such conditions as the Board of Commissioners may prescribe; to require the keeping of books showing the transactions of any such business or occupations and requiring the persons conducting such business or occupation to submit said books and their stocks to the inspection of the police at such times as may be prescribed by ordinance. No license shall issue for a longer period than one year, and such license shall not be assignable, except by permission of the Board of Commissioners.

25. To license, tax, regulate, prevent or suppress paupers, peddlers, pawnbrokers and keepers of theatrical or other exhibitions, shows and amusements. To license, tax and regulate or prohibit theaters, circuses, moving picture shows and exhibitions of common showmen, and of shows of any kind, and the exhibition of natural or artificial curiosities, menageries and musical exhibitions and performances, and to regulate and license or prohibit street parades, pool tables, striking machines, lung testers, doll racks, cane racks and exhibitions, devices and things for which a fee is charged.

26. To prevent all boxing matches, sparring exhibitions, cock fighting and dog fighting and punish all persons thus offending.

27. To regulate, control and prohibit the carrying of firearms and other weapons within the city limits, and to provide and inflict the same punishment therefor as is now or hereafter may be provided by State law against persons unlawfully carrying weapons.

28. To provide workhouses for vagabonds and disorderly persons who are unable or refuse to pay fines, or who have been sentenced to fine and imprisonment or to compel them to work on the streets, alleys and public works, and make all necessary regulations concerning the same, and to provide, keep and regulate a city prison.

29. To define what shall be nuisances in the city, and within three thousand feet of the corporation lines outside of the city limits and to abate such nuisances by summary proceedings, and to punish the authors thereof by penalties, fines and imprisonment.

30. To restrain, regulate and prohibit the selling or giving away indirectly, to evade a tax or penalty, of intoxicating or malt liquors, or anything by any person within the city, except by persons duly licensed, to forbid and punish the selling, bartering or giving away of any intoxicating or malt liquors to any minor, student, apprentice or habitual drunkard.

31. To prevent the sale, bartering and giving away of any intoxicating liquors in any house or place where any theatrical or dramatic representations are given, and prevent the same from being brought in or to such places under any pretext whatever. All rooms, buildings or apartments of any kind inside of the room where such representations are given, or

being a part of it, or adjoining or connected therewith by any door or doors, dumb waiter or opening of any kind shall be held to be within the places inhibited by this section.

32. To regulate parapet walks, to prevent dangerous construction and condition of chimneys, fire places, hearths, stoves, stove pipes, boilers and other heating apparatus, and cause the same to be removed and made safe.

33. To regulate the use of automobiles, motor cars, motor cycles or any motor vehicles, and the speed thereof; to prescribe the proper lighting of same when used at night; to issue permits for the use of such vehicles and to require the numbering of said vehicles.

34. To control and regulate the location and use of all kinds of steam engines and steam boilers in the city, and prescribe the qualifications of persons operating and running same, and to adopt such rules and regulations in relation thereto as may seem best for the public safety and comfort.

35. To inspect the construction of all buildings in the city, and to prescribe and enforce proper regulations in regard thereto; to regulate and locate or prohibit the erection of all poles in the city, and cause the same to be changed, whether telegraph, telephone, electric light or otherwise.

36. The city shall have power to establish, maintain and regulate a city prison, or city prisons, workhouses, and other means of punishment for vagrants, city convicts and disorderly persons, houses of correction and reformatories for youthful criminals.

37. The city shall have power to enforce the by-laws and ordinances for the city by a fine not to exceed two hundred (\$200.00) dollars; provided, that no ordinance or by-law shall provide a lesser penalty than is prescribed for a like offense by the laws of the State.

The City of Dallas may provide by ordinance, for the commutation of fines imposed, by labor in a workhouse or on a rock pile, or upon the public streets and public highways of the City of Dallas, and for the collection of any fine imposed execution may be enforced as other execution issued in civil cases.

38. Whenever the forfeiture of a franchise, right or privilege granted to any person, firm or corporation to be exercised as a public utility is provided for in this act, the power to enforce such forfeiture shall not be construed to be in the Board of Commissioners, but such forfeiture shall be finally enforced only through the decree of a court of competent jurisdiction.

SEC. 4. *Fires.* The City of Dallas shall have power:

1. To provide means for the protection against and the extinguishment of fires, and shall provide for the regulation, maintenance and support of a Fire Department, and for the purpose of guarding against the calamity of fire, may prescribe fire limits, and may regulate or prohibit the erection, building, placing or repairing of wooden buildings within such limits in said city as may be designated and prescribed as fire limits, and may also within said limits prohibit the moving or putting up of any wooden buildings from without said limits, and may also prohibit the removal of any wooden buildings from one place to another within said limits, and may direct and prescribe that all buildings within the limits so designated in the ordinance as fire limits, shall be made or constructed of fire-proof material, the kind, character, extent and quality of which buildings and

material may, by ordinance, be prescribed and fixed, and may prohibit the repairing of wooden buildings in fire limits when the same shall have been damaged to extent of 33 1-3 per cent of the value thereof, and may prescribe the manner of finding such damages, and may declare all dilapidated buildings to be a nuisance, and direct the same to be repaired, removed or abated in such manner as the Board of Commissioners may prescribe, and may declare all wooden buildings in the fire limits which they deem dangerous to contiguous buildings, or which may cause or promote fires, to be nuisances, and may require and cause the same to be removed in such manner as may be prescribed, at the expense of the owner, and may further prescribe limits within which only a fire-proof roofing may be used, and may impose a penalty for violation of such rules and regulations.

The city shall have the right, by ordinance, to regulate, prescribe and govern the storage of lumber, sash, doors, blinds and any and all kinds of goods, wares and merchandise of every kind, and prescribe limits within which such materials may be carried, and fix penalties for violation of the rules and ordinances governing the same.

2. To regulate or prevent the carrying on of manufactories and other works dangerous in causing fires, and to regulate the location of cotton presses, sheds and other buildings dangerous on account of fires.

3. To prevent the deposit of ashes in unsafe places and cause the removal from one's premises of all trash, old papers, straw, goods boxes, barrels and anything else dangerous on account of fire, and of all filth, slops and animal or vegetable matter and everything else offensive and dangerous to health and comfort, and to cause all buildings and enclosures in a dangerous state to be put in a safe condition.

4. To regulate the size, number and manner of construction of doors and stairways of theatres, tenement houses, hotels, boarding houses, apartment houses, audience rooms, public halls and buildings used for the gathering of a large number of people, whether now built or hereafter to be built, so that there may be convenient, safe and speedy exit in case of fires.

5. To require the construction of suitable fire escapes on or in hotels, lodging houses, factories and other buildings, whether now built or hereafter to be built.

6. To regulate, prevent and prohibit the use of firesworks.

7. To compel the owners or occupants of houses or other buildings to have scuttles in their roofs and stairs or ladders leading to the same.

8. To authorize one or more officers, agents or employes of the city to enter in and upon all buildings and premises, to examine and discover whether the same are dangerous on account of fire, or in any unclean state, and cause all defects to be remedied, and filth and trash to be removed, and generally the Board of Commissioners shall have power to establish such regulations for the prevention and extinguishment of fires as it may deem expedient.

SEC. 5. *Health.* The City of Dallas shall have power:

1. To regulate burial grounds, crematories and cemeteries, and to prohibit burial within the city limits if deemed advisable or if necessary to protect the public health, and to condemn and close burial grounds and cemeteries in the thickly settled portions of the city, and when demanded by the public interest or public health, to remove or cause to be removed bodies interred in such condemned and closed cemeteries and burial grounds,

and shall cause them to be re-interred in a suitable place to be provided by the city, at its expense, and whenever advisable the city may condemn the land proposed to be used for the re-interring of bodies in the same manner as in condemnation suits of railway companies, and use such condemned ground formerly used for cemeteries, for such purposes as may best subserve the interests of the city.

The City of Dallas shall have power to acquire land and grounds inside or outside of the city limits by purchase, gift, or otherwise, to be devoted to and used for the purpose of a public and private cemetery, and to pass such suitable regulations concerning the burial of the dead in such cemetery, and make such charges for the burial of the dead therein as may be deemed proper by the Board of Commissioners, and said city shall also have the power to appropriate private property lying within or without the city limits to be used and devoted to cemetery purposes, as herein stated by condemnation proceedings brought for such purpose, and in all such cases the proceedings had to condemn such land shall be governed and controlled by the State law in reference to the condemnation of land by railroad companies as far as the same may be applicable thereto.

2. To regulate the burying of the dead, the registration of births and deaths, direct the keeping and returning of bills of mortality, and impose penalties on physicians, undertakers, sextons and others for any default in the premises.

3. The City of Dallas shall also have the power, by ordinance, to authorize the destroying of clothing, bedding, furniture, and buildings infected with the germs of any infectious or dangerous disease, when the public health requires the destruction of the same, and may also in the same manner authorize the destruction or removal of buildings or other objects after the same shall have been declared a nuisance and to be dangerous to the health or lives of the citizens of said city.

4. To make regulations to prevent the introduction of contagious diseases into the city, to make quarantine laws for that purpose, and to enforce them within the city and within ten miles thereof.

5. The City of Dallas is hereby given full power and authority to take such steps to improve and preserve the purity of the water in Trinity river, above the city of Dallas, as it may think necessary; provided, that the power in this section shall not be construed to give said corporation any jurisdiction or control over said river beyond the corporate limits of said city, except for the purpose of protecting or improving the water shed, i. e., the water supply of both Trinity river and the smaller streams or tributaries; provided further, that the said corporation shall have the right to condemn land, buildings and out-houses or closets when it may deem the same necessary for the protection and preservation of the purity of the water in said river, and shall have powers to control the same.

The City of Dallas shall also have power to require any persons or corporations owning or operating manufacturing enterprises within or without the city, which shall discharge refuse matter into Trinity river or its tributaries, to make other provisions for such refuse matter, or so purify the same as that the public health will be fully protected.

6. To require the owners of private drains, sinks, privies, to fill up, cleanse, drain, alter, relay, repair fix and improve the same, as they may be ordered by resolution or ordinance, and impose penalties upon persons failing to do the same. If there be no person in the city upon whom such

order can be served, the city can have such work done, and costs of the same shall be a lien on the property and taxed up against it, and collected in such manner as the Board of Commissioners may determine.

7. To prevent any person from bringing, depositing or having within the city limits, the carcasses of any dead animal, or other unwholesome substance, or matter, or filth of any kind, and to require prompt removal of the same, and impose all necessary penalties for the enforcement of such powers.

8. To provide for the inspection of dairies inside and outside the city limits, doing business within the city, and to charge and provide license fees for inspection; to establish and maintain a standard of sanitary conditions governing dairies inside and outside the city, doing business within the city; to establish and maintain a standard of the quality of all dairy products sold in the city, and to provide for penalties for the violation thereof.

9. To regulate, license or prohibit butchers and prevent their slaughtering animals in the city limits, and revoking their license for malconduct in trade, and to regulate, license and restrain the sale of fresh meat, fruits and vegetables, and the slaughter of animals, and to license and regulate or prohibit slaughter houses within the city limits.

10. To compel the owner or occupant of any grocery, soap, tallow or chandler establishment or blacksmith shop, tannery, stable, slaughter house, distillery, brewery or other building, or sewer, privy, hide house, or other unwholesome or nauseous place or house to cleanse, remove, fill up, repair or abate the same, as may be necessary for the health, comfort and convenience of the inhabitants.

11. To regulate the inspection and slaughter of animals and the sale of fresh meats within the city, and the inspection and the sale of beef, pork, flour, meal, fish, salt and other provisions; whisky and other liquors, and all other articles of food or drink whatsoever, to be consumed within the city, and to appoint inspectors, weighers and gaugers, and prescribe their duties and powers, and to regulate their fees, and to provide for the inspection and weighing of hay and coal, ice, and the measurement of firewood and other fuel to be sold in the city.

12. To regulate, restrain, locate, abate, or prohibit slaughter houses, gas reservoirs and tanks, glue factories, bone boilers, hide houses or establishments for burning hides, soap factories, places for rendering lard, tallow, offal, and other substances that can be rendered, and all other establishments where any nauseating, dangerous, offensive or unwholesome business may be carried on.

13. The city of Dallas shall have the right and power, by ordinance, to provide that the tenant or owner of any property shall pay to the city reasonable charges for the removal of night soil or other refuse matter from the closets of the premises thereof, and to prohibit anyone except someone in the employ of the city, or by the city authorized to do so, from removing or carrying away the contents of any privy, vault or water closet, or any receptacle of human excrement, and the city shall have the right to have inspected the premises of all persons, at any time, in the interest of the public health, and for the purpose of making said inspection, the officers or agents of the city, duly authorized to do so, shall have a right to enter upon the premises of any person at any hour during the daytime to make said inspection. Whenever notice is given by

any officer or employe of the city inspecting any premises that said premises need cleaning, the said night soil or other refuse matter shall be removed and the owner or tenant of said premises shall pay the city the price prescribed therefor, and failure to do so shall subject said persons to the penalties to be prescribed by ordinance, and said persons shall be fined, upon conviction in the Corporation Court, in any sum not less than one dollar nor more than two hundred dollars.

SEC. 7. *Municipal Service.* The City of Dallas shall have power:

1. To buy or construct, own, maintain and operate a system or systems of waterworks, gas or electric lighting plants, telephones, street cars and sewers, or any other public service or enterprise, that may be approved by a majority of the qualified voters of the city of Dallas, voting therefor at any regular election for city officers, in accordance with the provisions of this act; and may demand and receive compensation for such service furnished for private purposes, and shall have power to condemn the property of any person, firm, or corporation for the purpose of operating and maintaining any such utility, and for distributing such service throughout the city or any portion thereof, but in such condemnation proceedings no allowance shall be made for the value of any franchise and only the actual physical assets shall be purchased by the city of Dallas.

2. To acquire or own within or without the city limits, either by purchase, donation, bequest or otherwise, all property it may need for any municipal purpose, whatever; and all necessary right of ways thereto, and shall also have the power to sell and dispose of the same, except as otherwise provided in this act.

3. To provide all needful buildings for the use of the city; to provide for enclosing, improving, ornamenting and regulating all public grounds belonging to the city; to provide hospitals and regulate and maintain the same, and to permit or prohibit private hospitals; to establish an active system of inspection over premises and conduct of persons; to establish a reformatory or industrial or truant school for refractory or unprotected boys and girls under such rules and regulations as the Board of Commissioners may prescribe, and to provide for the issuance of bonds therefor in any sum not to exceed \$25,000 after submission of such matter to a vote of the taxpayers of said city.

4. To lay out, establish, open, alter, widen, lower, raise, extend, grade, narrow, care for, pave, supervise, maintain and improve streets, alleys, sidewalks, squares, parks, public places and bridges, and to vacate and close the same; to sprinkle and care for the streets, and to regulate the use thereof; and to require the removal from the streets and sidewalks of all obstructions, telegraph, telephone, street railway or other poles carrying electric wires, signs, fruit stands, show cases, and encroachments of every character upon said streets and sidewalks; and to vacate and close private ways.

The cost of constructing sidewalks and keeping the same in repair, together with the cost of collection, shall be defrayed entirely by the property owners in such manner as the Board of Commissioners may provide, and shall be a perpetual lien on the property until paid.

5. To prevent any street or sidewalk from being dug up or excavations to be made therein, unless the same be done with the permission of the Board of Commissioners, and under the direction of the City Engineer, or other officer designated by the Board of Commissioners; and to prescribe

and exact fees for such privileges, and deposits as guarantees of proper restoration of such street or sidewalks.

6. To regulate, establish and change the grade of all sidewalks, streets and premises, and to require and compel the filling up and raising the same.

7. To permit, prevent and regulate the laying of gas, water, and sewer mains and pipes in the city of Dallas; provided, however, that any water or sewer mains or pipes that may be laid in any public street or alley shall thereupon immediately become the property of the city of Dallas. To compel any person using the streets, alleys or sidewalks for the purpose of laying gas or water mains and pipes, sewer pipes, or for building or other purposes, to repair, clean up, and restore said streets, sidewalks and alleys so used.

8. To provide for, establish and maintain a free public library within the city, and to co-operate with any person, firm, or corporation under such terms as the Board of Commissioners may prescribe for the establishment of such free public library, and to that end they shall appropriate annually out of the general revenue of the city as a fund for the support and maintenance of the Dallas Public Library a sum equal to fifteen one-hundredths of one mill (.00015) of the assessed taxable values of the city for the current year.

9. To establish, buy, erect, maintain, own, lease and regulate wharves and docks, charge wharfage and dockage, to condemn private property for such uses and purposes and to fix places for the anchorage of water craft thereon.

10. To buy, establish, lease, maintain, regulate and operate markets and market places, and abbatoirs, and to build, own and maintain buildings therefor, and to rent and lease the same.

11. To establish and maintain sanitary closets for the service of the public, and to obtain by purchase or condemnation property for such closets.

SEC. 8. *Franchises.* 1. The ownership, right of control and use of the streets, highways, alleys, parks, public places and all other real property of the city of Dallas, is hereby declared to be inalienable to said city, except by ordinance passed by vote of the majority of the Board of Commissioners, as hereinafter provided; and no franchise or easement involving the right to use the same, either along, across, over or under the same, shall ever be valid, unless expressly granted and exercised in compliance with the terms hereof, and of the ordinance granting the same. No act of omission of the city, its Board of Commissioners, officers or agents shall be construed to confer or extend by estoppel or indirection, any right, franchise or easement, not expressly granted by ordinance; provided, that alienation of school property shall be as herein elsewhere authorized.

2. The city of Dallas shall have power, subject to the terms and provisions hereof, by ordinance to confer upon any person or corporation the franchise or right to use the property of the city, as defined in the preceding section, for the purpose of furnishing to the public any general public service, including heat, light, power, telephone service, refrigeration, steam, or the carriage of passengers or freight within the said city and its suburbs, over the streets, highways and property of said city, or for any other purpose whereby a general service is to be furnished to the public for compensation or hire, to be paid to the franchise holder, whereby a right to, in part, appropriate the streets, highways or other property of

the city, is necessary or proper, provided, that no franchise shall be granted by said city to any person, firm or corporation to own, control or operate waterworks therein.

3. No exclusive franchise or privilege shall ever be granted, nor a franchise, nor a privilege to commence, at any time after six months subsequent to the passage of the ordinance granting the same, and no franchise shall be directly or indirectly extended beyond the term originally fixed by the ordinance granting the same, nor shall any franchise be granted to any person or persons or corporation authorizing such person or corporation, their associates, assigns, or successors, to acquire the physical property, rights or franchises of another person or corporation to whom or which a franchise has already been granted by the city whereby the rights and properties held and used under such franchise are assigned to another person, firm or corporation which holds a franchise extending beyond the time of the expiration of the franchise of the person, firm or corporation selling such physical properties, rights or franchises.

4. The city of Dallas shall have the power, by ordinance, to grant any franchise or right mentioned in the preceding sections hereof, which ordinance shall not be passed finally until its third reading which readings shall be at three separate regular meetings of the Board of Commissioners, the last of which shall take place not less than thirty days from the first. No ordinance granting a franchise shall pass any reading except by vote of the majority of the Board of Commissioners, and such ordinance shall not take effect until sixty days after its adoption and its third and final reading; provided, that if at any time before such ordinance shall finally take effect a petition or petitions shall be presented to the Board of Commissioners signed by five hundred of the bonafide qualified voters of the city, then the Board of Commissioners shall submit the question of the granting of said franchise to a vote of the qualified voters of the city of Dallas at the next succeeding annual election to be held in said city, provided that notice thereof shall be published at least twenty days successively in a daily newspaper published in said city, prior to the holding of said election. Ballots shall be used briefly describing the franchise to be voted on and the terms thereof and containing the words "For the granting of a franchise" and "Against the granting of a franchise." The vote shall be canvassed by the Board of Commissioners and should it result in a majority of those voting thereon, casting their votes "For the granting of a franchise," then by order entered in their minutes the Board of Commissioners shall so declare, and said franchise shall at once take effect. But should a majority of such votes be cast "Against granting a franchise," as ascertained by the Board of Commissioners, then said board by order entered in their minutes, shall so declare; and such franchise shall not take effect. In case a franchise is refused by the Board of Commissioners, then the matter may be submitted to the qualified voters on petition, as heretofore provided, and a failure to finally pass on an application within six months after the filing of such application shall be construed as a refusal.

5. No franchise shall ever be granted for a longer term than twenty years, nor shall any right, franchise or privilege now in existence ever be extended beyond the period now fixed for its termination, directly or indirectly, or through any means whatsoever, and any ordinance or transaction in violation or evasion of this prohibition shall be absolutely

void. No subsidiary franchise or franchise of any character appertaining or relating to any other franchise which shall extend beyond the life of such main franchise shall ever be granted to any franchise holder, or to any person, firm or corporation acting for him directly or indirectly, and any such grant in violation of this prohibition shall be absolutely void. No franchise, privilege or easement granted by the City of Dallas shall ever be used or operated so as to extend or enlarge any other franchise or privilege granted by said city, and any violation of this prohibition shall operate as a forfeiture of each and all of such franchises, privileges and easements.

6. All persons or corporations to whom franchises may hereafter be granted, or their assigns and successors, shall as compensation for the right or privilege enjoyed pay to the city a sum not less than four per cent of the gross receipts of the business pursued by the holder of the franchise. The amount of said bonus or compensation shall be fixed by ordinance granting the franchise and shall be payable on the second day of January in each year, for the preceding year. Said bonus or compensation shall be exclusive of and in addition to all lawful ad valorem taxes upon the value of the franchise or other property of the holder thereof, and lawful occupation taxes imposed upon the occupation or calling of the holder of such franchise. The Board of Commissioners may, however, in their discretion in the ordinance granting any franchise, provide, that no bonus shall be paid for the first three years thereof.

In order to ascertain the true amount of such gross receipts and to determine the amount of such bonus or compensation, and for any other purpose relating to the business or affairs of the city the Board of Commissioners shall have power to examine or cause to be examined the books, papers and records of franchise holders; to take testimony and compel the attendance of witnesses and the production of books, papers or records, and to examine witnesses under oath and under such rules and regulations as said Board may adopt, and should any franchise holder refuse inspection of its books, papers or records or the production of the same when lawfully required to do so by said Board, or should any officer, agent or employe of said franchise holder refuse to give testimony before said board, then said board shall have power, by ordinance, to declare the franchise or privilege enjoyed by such corporation, or person so in default, annulled and terminated.

7. The right is hereby delegated to the city of Dallas, acting through its Board of Commissioners, to determine, fix and regulate the charges, fares or rates of any person, firm or corporation enjoying or that may enjoy a franchise or exercising any other public privilege in said city and to prescribe the kind of service to be furnished by such person, firm or corporation, and the manner in which it shall be rendered, and from time to time to alter or change such rules, regulations and compensation. The board shall make rules and regulations granting a fair hearing to persons or corporations to be affected by said regulations, and no change in regulations shall be adopted except after notice to the persons affected and after a fair hearing shall be granted them; provided, that in adopting such regulations and in fixing or changing such compensation, or determining the reasonableness thereof, no stocks or bonds authorized or issued by any corporation enjoying a franchise shall be considered unless upon proof that the same have been actually issued by the corporation for money paid and used for the development of the corpo-

rate property, labor done or property actually received in accordance with the laws and Constitution of the State applicable thereto; and in order to ascertain all facts necessary for a proper understanding of what is or should be a reasonable rate or regulation, the Board of Commissioners shall have full power to inspect books and compel attendance of witnesses as provided in sub-section 6 hereof and may prescribe all penalties named in sub-section 6 for a failure or refusal to attend and testify or produce books.

8. Every public service corporation shall furnish and provide equal and uniform service alike to all citizens of the city of Dallas, and it shall be unlawful and a sufficient ground for the forfeiture of any franchise for any such corporation to grant free service, or furnish better service or to furnish service at a lower price or rate, quantity considered, to any person or persons, or otherwise discriminate in the matter of rates or service between citizens of Dallas. Upon proof being received by the Commissioners that this section is being violated, they shall at once summon witnesses and investigate, and if they so find then it shall be their duty to immediately cause suit to be instituted to have such franchise forfeited; provided, however, the Board of Commissioners shall have power by ordinance to grant any such corporation the right to grant reduced rates to persons specified in such ordinance, and provided, that the Board of Commissioners may, by ordinance, authorize any street railway or interurban railway to transport free any member of the police or fire department of said city within the corporate limits thereof, and to authorize the giving of such free transportation in other cases, when the same shall not be in conflict with the general law of the State, which shall control and govern this subdivision.

9. No franchise shall hereafter be granted except upon condition that the city shall have the right at any time after eighteen years from the granting thereof to purchase the physical properties of the franchise holder and to terminate its franchise, and all privileges enjoyed by it thereunder; provided, the majority of the qualified tax paying voters of the city voting thereon shall vote to do so; and provided, that upon the petition of five hundred qualified property tax paying voters to the Commissioners, the matter of the acquisition of such property shall be submitted to an election to be determined by a vote of the majority of the qualified tax paying voters, voting thereon; which election shall be held at the next succeeding election in said city, after at least twenty days notice thereof shall have been published daily for twenty days in a newspaper published in said city, and provided, that the owner of such physical property shall be compensated for the value thereof, considering solely the physical assets, such value to be determined by the report of the majority of three arbitrators, one to be selected by the city, one by the owner of the physical property to be valued, and the third by the arbitrators so selected. But if the owner of such physical property shall refuse for thirty days to select an arbitrator, then the value of such property shall be fixed by vote of a majority of the Board of Commissioners.

“Provided, that said purchase, when so made by the city, shall not take effect until the expiration of twenty years from the time of the granting of such franchise.”

10. Ordinances granting franchises shall be subject to the terms hereof, and shall contain such terms and conditions as the Board of Commissioners

shall see fit to impose. All franchises shall be exercised in accordance with the terms of the ordinance granting the same and of this charter. If such franchises shall not be exercised in substantial accordance with the terms hereof, and of the ordinance granting the same, then after notice to and reasonable hearing of the holders thereof, such franchises may be cancelled or annulled and the Board of Commissioners shall, by ordinance, adopt reasonable rules and regulations for such notice and hearing.

11. It shall be the duty of the Board of Commissioners, as soon as practicable after taking office, to have true copies of all franchises permits, ordinances, orders, resolutions, or any other proceedings by which any rights, privileges or franchise are granted to any company, corporation or individual owning, or operating any gas, oil, street railway, steam railway, interurban, electric light and power, telephone or any other public utility, which said franchises, etc., shall be codified, indexed and printed and offered for sale at cost price; and all future franchises shall likewise be printed and offered for sale at cost price.

12. Any franchise or right which may hereafter be granted to any person or corporation to operate a street railway within the city or its suburbs shall be subject to the condition that the Board of Commissioners shall have the right to grant to any other person or corporation desiring to build or operate a street railway or interurban railway within or into the city of Dallas, the right to operate its cars over the tracks of said street railway in so far as may be necessary to enter said city and to reach the section thereof used for business purposes; provided that the person or corporation desiring to operate its cars over the lines of said street railway shall first agree in writing with the owner thereof to pay it reasonable compensation for the use of its tracks and facilities. And if the person or corporation desiring to use the same cannot agree with said owner of said street railway as to said compensation within sixty days from offering in writing to do so, and as to terms and conditions of the use of said track and facilities, then the Board of Commissioners shall by resolution, after a fair hearing to the parties concerned, fix the terms and conditions of such use and compensation to be paid therefor, which award of the board, when so made, shall be binding on and observed by the parties concerned.

13. Interurban railways are defined to be, in the meaning of this charter, railways operating their cars by electricity for the carriage of freight and passengers for hire, not wholly within the city and its suburbs, but whose lines extend from the city of Dallas and its suburbs to other towns, cities or villages.

14. The Board of Commissioners shall have power, subject to the terms and conditions contained in this charter, to grant to any person or corporation, desiring to extend an interurban railway into the city, the right to lay tracks and operate cars over the streets or other property of the city and over the tracks of other street railways for a term not exceeding twenty years.

15. The right mentioned in the preceding section shall be granted by ordinance only, which ordinance shall not be finally passed until after three separate readings, the last of which shall take place not less than thirty days from the first. The granting or refusing of the right or franchise herein mentioned shall be subject to the terms and provisions of this charter concerning the submission of general franchises to a vote of the

qualified voters of the city, which shall in all things govern and apply thereto.

16. The ordinance granting such right or franchise, shall contain such conditions as may seem proper to the Board of Commissioners, and shall provide for such reasonable compensation to the city as may seem just to the board for the use of the franchise or right granted, which compensation shall be payable annually. And the ordinance granting such right or franchise shall provide that failure to pay said compensation at the time specified therein shall forfeit and terminate said franchise. Said compensation shall be deemed to be a bonus payable to the city for the use and the right granted and shall be exclusive of and in addition to all ad valorem or occupation taxes, payable by the owner of said franchise.

17. The terms of this charter concerning the granting of franchises to persons or corporations for the purpose of rendering any public service wholly within the city and its suburbs shall not apply to interurban railways, except as specified in the four preceding sections and in the various sections providing for the referendum.

18. The Board of Commissioners shall have power to authorize steam railways operating their lines from the city of Dallas to other towns and cities beyond its limits to lay their tracks and establish their switches on and over the streets and other property of the City of Dallas or such parts thereof as the board may see fit, subject to the terms of this charter and to such conditions as may be imposed by the Board of Commissioners.

19. The right mentioned in the preceding section shall be granted only by ordinance, which shall provide for the payment of a reasonable annual compensation, to be paid to the city, which in no case shall be less than ten dollars (\$10.00) per annum, and shall not be construed to be a tax, but shall be in addition to and exclusive of all occupation or ad valorem taxes levied upon the property of franchises of the owner of said rights and upon the occupation pursued by said owner.

20. The compensation mentioned in the preceding section shall be payable annually in advance on the second day of January, and if not then paid the right granted shall forfeit and terminate.

21. The grant or refusal of an ordinance by the Board of Commissioners granting or refusing the right mentioned in the preceding sections shall be subject to the provisions of this charter providing for the submission of the granting or refusal of general franchises to the vote of the qualified voters of the city; provided that an ordinance granting or refusing the right to lay a switch not more than one block in length need not be subject to such vote unless said switch shall cross a street bounding such block.

22. The Board of Commissioners shall have power, by ordinance or resolution, to grant to any owner of property abutting upon the streets or other property of the city the use thereof or to go over or under the same in any manner which may be necessary or proper to the enjoyment of said abutting property by the owner; provided, that such use be not inconsistent with or does not unreasonably impair the public use to which said street or other public property may be dedicated.

The Board of Commissioners shall fix the terms and conditions of any such grant and the time for which the same shall exist. The right is expressly reserved to the city, acting through said board, to terminate such

grant when deemed inconsistent with the public use of the property of the city, or when the same may become a nuisance.

23. For the rights granted under the preceding section the city shall receive annual compensation to be fixed by the Board of Commissioners, not less than five (\$5.00) dollars per annum. Such compensation shall be paid each year in advance on the second day of January. The failure to pay same when due shall operate as an absolute forfeiture of the right granted.

24. No street or other railway shall be authorized by the Board of Commissioners to lay tracks on or occupy the streets or alleys of the city until the owners of a majority of the front feet of property abutting on said streets or alleys so to be occupied have, in writing, consented thereto and said consents have been filed with said Board; provided, the entire distance of such proposed line of railway shall be considered in determining whether the owners of a majority of the front feet of abutting property have consented thereto, and the majority here required shall be a majority of the front feet of the entire distance of such continuous line, whether occupying one or more streets or alleys; and provided further, that after the consent of any property owner shall be given in writing as herein provided for, he shall not be entitled to withdraw the same within twelve months after giving such consent, nor shall he be entitled to withdraw it thereafter if within such period the applicant for the easement shall file with the city the consents of enough of the property owners interested to authorize the Board of Commissioners to grant such easement.

25. No switch shall be authorized by the Board of Commissioners to be laid in such streets or alleys until the owners of a majority of the front feet of property in front of which said switch is to be laid shall have filed with said board their written consent thereto.

26. The city of Dallas shall have the power, by ordinance or otherwise, to regulate the speed of engines, locomotives and street cars within the limits of said city; and to require steam interurban and electric railway companies to keep the streets over which they run properly drained and to light the same wherever deemed necessary and to require steam interurban and electric railway companies to construct and keep in repair from curb to curb, bridges and crossings over all the ditches made or crossed by them, and to construct and maintain drains and culverts where crossed by any line of said railways on all streets over which they run; to direct and control the laying and construction of railroad tracks, turnouts and switches and to regulate the grade of same, and to require them to conform to the grade of the streets of said city as they may hereafter be or are now established, and that said tracks and turnouts and switches be so constructed and laid out as to interfere as little as possible with the ordinary travel in the use of the streets; to require steam railways using any portion of the streets of the city to pay all or any part of the paving, grading, draining and repair thereof along the streets so used by such railway, and to light the same whenever and wherever deemed necessary or advisable; to require any street or electric railway company to pay the cost of the grading, paving, repairing or repaving, or otherwise improving the street or streets or intersections thereof used or occupied by such railway company and such cost shall be a lien upon the property and franchises of the company. The portion of the street occupied by an electric or street railway company shall be deemed to be

the space between its tracks and twenty-four inches on the outside of each of its rails, and all the space between double tracks, turnouts and switches.

Any railroad company, interurban or street railway company proposing, with the permission of the city of Dallas, to occupy any street or streets already occupied by any other such company shall, besides paying for paving as may be required by the city of Dallas or by the provisions of this act, be required also to pay for paving between the tracks of said two roads within twenty-four inches of the track of such other road, and such cost shall be a lien upon the property and franchises of the company; and if the Board of Commissioners shall so direct, said street or electric railway company may be required to pave the street or streets occupied by them from curb to curb.

Should any railroad or street railway company propose to lay a track on any street or portion of a street which shall have been improved under the provisions of this act, it shall become liable for the portion of the cost of such improvement as the commission may direct, or as is fixed by this act.

No railroad or street railway company shall be permitted to occupy any street or portion of a street, improved or otherwise, not previously occupied by it, except with the permission of the Board of Commissioners.

The City of Dallas shall have power, by ordinance, to require any street car or electric railway car or electric railway corporation, operating street cars in, into or through the City of Dallas, to issue to its passengers transfers from any of its lines to any other lines within the city, upon the payment by said passenger of the fare or rate prescribed for one continuous passage, whether such line be owned by it or any other company and in addition to the penalties to be prescribed by ordinance for the failure to give transfers, shall have the right by mandamus or other proper remedy in any court of competent jurisdiction, to enforce any ordinance requiring the giving of transfers by any street railroad company; and in addition thereto the City of Dallas may recover of the street railway company the sum of twenty-five dollars as penalty and liquidated damages for each and every failure to give a transfer.

It shall be unlawful to grant, to continue, amend or extend any street railway franchise without binding any such railroad to give universal transfers, under provisions now fixed or hereafter to be fixed by general ordinance.

26a. All persons or corporations now operating or hereafter operating within the corporate limits of the city of Dallas, any interurban electric railway line, either on their own or other street railway tracks, shall be required to give reasonable local passenger service thereon within the corporate limits of the city of Dallas between all points on said interurban line or lines for a fare not exceeding five cents, and to that end shall be required to stop passenger cars so operated by them at all street crossings in said city, to take on and let off local passengers, provided that this shall not apply to any portion of such interurban lines where local service is furnished by local cars to the same extent as is required under the foregoing provisions hereof.

26b. Any person, persons or corporation operating an interurban electric railway line within the corporate limits of the City of Dallas, who shall violate any of the provisions of the foregoing subdivision shall

be liable to the City of Dallas, for a penalty of not less than \$100.00 nor more than \$500.00 for each offense, and which penalties shall be recovered and suit therefor shall be brought in the name of the City of Dallas, in any court of proper jurisdiction in Dallas County, by the City Attorney of said City of Dallas, Texas, or under his direction.

27. The City of Dallas shall have the power, by ordinance, to fix and regulate the price of water, gas and electric lights, and to regulate and fix the fares, tolls and charges of local telephones and exchanges; of public carriers and hacks, whether transporting passengers, freight or baggage, and generally to fix and regulate the rates, tolls or charges, and the kind of service of all public utilities of every kind.

28. The City of Dallas shall have power to direct and control the laying and construction of railroad tracks, turnouts and switches and to require that they shall be so constructed and laid as to interfere as little as possible with the ordinary travel and use of the streets, and to require that they be kept in repair, to regulate and control the location of cable and other street and railroad tracks and all steam railroad tracks, and to require railway companies of all kinds to construct at their own expense such bridges, viaducts, turnouts, culverts, crossings and other things, as the Board of Commissioners may deem necessary; to regulate the speed of all railroad trains and street cars and interurban railways within the city limits and their stops at street crossings and to require railroad and street car companies and interurban railways to keep the streets through which they run, in repair, and to require all railroad companies and street railway and interurban companies to light the streets over or across which street railway, interurban or railroad cars are operated, whenever deemed necessary and to prescribe the kind of light to be used, and to levy special taxes on assessments upon them for street improvement the same as against property owners; to require all railroad companies, street railway companies or interurban railway companies to maintain gates or watchmen at street crossings when ordered by the Board of Commissioners.

29. To prevent and regulate the running of horse railway cars, or cars propelled by dummy engines or other power, the laying down tracks for same, the transportation of passengers thereon, the form of rail to be used, and everything used, and everything else concerning street railways and to levy special taxes or assessments against such roads for street improvement, the same as against the property owner.

30. The Board of Commissioners shall have the power to require any corporation holding a franchise from the city to allow the use of its tracks, poles and wires by any other corporation to which the city shall grant a franchise, upon the payment of a reasonable rental therefor to be fixed by the Board of Commissioners.

31. Corporations enjoying franchises now or hereafter from the City of Dallas shall not be permitted to issue stocks or bonds, except for money paid, labor done, or property actually received.

32. In the event of the issuance of such stock or bonds the same shall not be issued either as to stock or bonds in excess of the money actually paid, or in excess of the reasonable value of the labor actually done, or property actually received.

33. Any stock or bonds issued in contravention of the provisions of this article shall be void.

34. Whenever any corporation enjoying a franchise from the City of Dallas shall desire to issue any stock or bonds, it shall file with the City Secretary a statement showing the amount of said stock or bonds proposed to be issued.

35. Whenever any corporation enjoying a franchise from the City of Dallas may desire to issue any stock or bonds subsequent to its organization, it shall file with the City Secretary a statement showing the amount of such stock and the amount of such bonds proposed to be issued, and showing the purpose for which the same are to be issued.

36. Upon application made, and after thirty days public notice thereof, the legislative authority of the City of Dallas, upon showing that the necessary interests of the corporations require it, and that such interests are not in conflict with the public interests, may authorize a corporation enjoying a franchise from the City of Dallas to issue stocks and bonds with the restrictions herein imposed; provided, that the same shall be subject to the provisions of subdivisions 32 and 33 of this article, and provided further, that such authority shall never be given for the issuance of funding bonds to replace other bonds in excess of the amounts to which such bonds would be limited by the provisions of said subdivisions.

37. Every corporation holding a franchise or enjoying an easement of any sort through, under or from the City of Dallas, shall be required to prepare and file annually with the Board of Commissioners, within sixty days after the close of the fiscal year of such corporation, a true, full and correct statement, based upon its condition at the close of such fiscal year and its transactions for the current year which shall exhibit.

(a) The amount of all stock issues of such corporation, and the divisions thereof.

(b) An itemized statement of the indebtedness of such corporation, its nature and division, whether floating or bonded, and the interest payable on each item thereof.

(c) An itemized statement of the income of such corporation and the amounts derived from each source of income.

(d) An itemized and detailed statement of the expenditures of such corporation.

(e) An itemized statement of all property of every kind owned by said corporation, wherever situate and the location and fair market value of each item thereof.

(f) Said annual statement shall be verified by oath of a duly authorized officer or agent of such corporation, and shall be spread upon the minutes of the Board of Commissioners.

If any person signing such annual report shall wilfully make a false representation therein, he shall be guilty of perjury, and punished therefor as provided by law.

If any corporation required to file such report shall fail so to do as herein provided, it shall be the duty of the City Attorney, after due notice to such corporation of such intention, to bring a suit in the district court to forfeit the franchise granted by the city to such corporation, and if it shall appear to the court that such corporation has wilfully failed to make such report, it shall render judgment in said cause decreeing a forfeiture of such franchise and of all rights accruing thereunder to said corporation.

ARTICLE III.

THE BOARD OF COMMISSIONERS.

1. All powers conferred on the city shall, unless otherwise provided in this charter, be exercised by a Mayor and four Commissioners, who together shall be known and designated as the Board of Commissioners, all of whom shall be elected by the qualified voters of the city at large, and shall devote their entire time to the service of the city.

The Mayor shall be ex-officio president of said Board of Commissioners, and shall have and exercise all of the powers of a member thereof.

2. On the sixth Tuesday after this act shall take effect, and biennially thereafter on the first Tuesday of April, there shall be elected at an election to be held in said City of Dallas, to be called as herein-after provided, a Mayor and four Commissioners, who together shall compose said Board of Commissioners, and who shall serve for the term of two years and until their successors shall be elected and shall qualify. Candidates for Mayor and for places on said Board of Commissioners shall be voted for separately, and candidates for Commissioner shall be designated on the official ballot as candidates for Commissioner No. 1, or No. 2, or No. 3, or No. 4 (said numbers to be printed after the designating title "Commissioner"), in accordance with the written requests which said candidate shall file with the City Secretary. Each candidate for Commissioner shall designate in the announcement of his candidacy, and in his request to have his name placed on the official ballot, the number of the place on the Board of Commissioners for which he desires to become a candidate, and such request to be placed on the official ballot shall be filed in writing with the City Secretary at least ten days before such election shall be held. The City Secretary shall prepare an official ballot in accordance with such requests and with the provisions hereof, and only such ballot shall be used at said city election. The candidate at said election for Mayor or for a place on said Board of Commissioners who shall receive a majority of all the votes cast for the office for which he is a candidate shall be declared elected to such office. In the event any candidate for either of said offices shall fail to receive a majority of all votes cast for all the candidates for such office at such election, the Mayor of said city shall, on the first day following the completion of the official count of the ballots cast at said first election, issue a call for a second election to be held in said city on the second Tuesday following the issuance of such call, at which said election the two candidates receiving the highest number of votes for any such office to which no one was elected at said first election by receiving a majority of all votes cast thereon, shall be again voted for. The official ballot to be used at said second election shall be prepared by the City Secretary and the name of no person shall appear thereon unless he was a candidate for the office designated at said first election, and the two persons receiving at said first election the first and second highest number of votes cast for candidates for such office shall be entitled to have their names printed on said official ballot, in the order of their standing in the computation of the votes cast at said first election, as candidates at said second election for such office; provided, that in the event any person who

was a candidate at said first election and who shall be entitled to become a candidate at said second election shall fail to request that his name shall appear on the official ballot therefor, as herein provided, the candidate for such office standing next in order in the computation of votes shall succeed to his rights with respect thereto; provided, further, that two candidates for such office at said first election shall be entitled to become candidates therefor at said second election, which two candidates shall be those two among such candidates as shall stand highest, respectively, in the computation of votes cast for such of said candidates at said first election as shall file written requests to be placed on the official ballot as candidates for such office at said second election. In the event of a tie in the vote for the two leading candidates for any office at said first election, said office shall be filled at a second election, as herein provided for, at which such candidates, so tied in said first election, may again become candidates. In the event they, or either of them, shall fail so to do, the two candidates for such office who lead in the computation of votes therefor, and who desire to become candidates therefor at said second election, shall be entitled so to do, in the order of their respective votes at said first election.

In the event of a tie between the two candidates for any office at said second election they shall cast lots to determine who shall be elected thereto.

3. In case a primary election is held pursuant to the call or under the direction of any political party, or of any association of individuals for the nomination of candidates for the offices of Mayor and Commissioners, the candidates or persons voted for in said primary election shall be voted for at large by all of the legally qualified voters in said city and upon the same plan and under the same system as provided for in the preceding section, it being the purpose of this act to nominate and elect at large in said city the Mayor and Commissioners, without restricting the nomination of candidates for either position to any smaller designated territory within the limits of said city. A candidate for any such office who shall fail to receive in any primary election a majority of all the votes cast for all candidates for such office shall not be entitled to have his name placed on the official ballot as a candidate for such office at the regular election. Any primary election held to select a candidate or candidates for Mayor and for members of said Board of Commissioners which is not conducted under the majority rule system provided for in Section 2 shall be illegal and void, and the nominees thereof shall not be entitled to have their names placed on the official ballot to be used in the regular election.

Independent candidates for Mayor or for positions on said Board of Commissioners shall be entitled to have their names placed on the official ballot to be used in the regular election by filing with the City Secretary, not less than ten days before such election, a written petition therefor, which shall be signed by such candidate and by at least one hundred qualified voters of said city.

4. Any primary election and all regular and special elections held in and for said city shall be governed in all respects by the general election laws of the State, except as herein specially provided.

5. Each member of the Board of Commissioners shall, in addition

to the other qualifications prescribed by law, be at the date of his election a qualified voter of the City of Dallas, and shall not be in arrears in the payment of any taxes or other liabilities due the city.

6. The Mayor shall be a member of the Board of Commissioners with all the rights, powers and duties appertaining thereto. He shall be the chief executive officer of said city, and shall see that all the laws thereof are enforced. It shall be his special duty to see that the conditions of all franchises granted by the city are faithfully complied with, and that all contracts made with the city are faithfully executed. He shall nominate all appointive officers of the city except Auditor, and such nominations shall be subject to confirmation by the Board of Commissioners, by a majority vote thereof. The Mayor shall not be entitled to vote as a member of said board upon the question of the confirmation of any nomination for office so made by him, but shall be entitled to vote upon all other questions that may be submitted to or acted upon by said board. The officers to be thus nominated by the Mayor and confirmed by the Board of Commissioners shall be all officers whose powers, or duties or salaries are prescribed and defined by ordinance of said city. The salary of the Mayor shall be four thousand (\$4000) dollars per year, payable in equal monthly installments.

The Board of Commissioners shall at the beginning of their terms of office elect by ballot, by a majority vote of all the members thereof, one of their number to act as Mayor pro tem, and the Commissioner so chosen shall be invested with all the powers, and shall perform all the duties of the Mayor, during his absence or sickness.

7. In the case of the death, resignation or permanent disability of the Mayor or whenever a vacancy in the office of the Mayor shall occur for any reason, the Mayor pro tem shall act as Mayor, and shall possess all the rights and powers of the Mayor, and perform all of the duties and receive his salary under the official title, however, of "Mayor pro tem," until an election is ordered by the Board of Commissioners to fill the vacancy in the office of the Mayor. Said election, should a vacancy occur in the office of Mayor, shall be called by the Board of Commissioners and held within thirty days thereafter, and notice by publication given for at least twenty days, as may be required by law; provided, that in the event such vacancy should occur within ninety days of the next regular election to be held either for members of the Board of Education or for members of the Board of Commissioners said election for Mayor shall be held at said next regular election.

8. The Board of Commissioners, at their first meeting after election, or as soon thereafter as may be practicable, shall, by a majority vote, designate from among their members one Commissioner who shall be known as "Police and Fire Commissioner," and who shall have under his special charge the enforcement of all police regulations of said city, and general supervision over the fire department thereof; one Commissioner to be known as the "Commissioner of Streets and Public Property," who, except as herein otherwise provided, shall have under his special charge the supervision of the streets, alleys, public grounds and other property of said city, and be charged with the duty of lighting the streets and keeping the streets, alleys, public grounds and property in a clean and sanitary condition and with the enforcement of all rules and regulations necessary to these ends, and who shall also have

under his special charge the supervision of all public improvements, except as herein otherwise provided, and shall see that all contracts therefor are faithfully complied with; and one Commissioner to be known as the "Waterworks and Sewerage Commissioner," who shall have under his special charge the construction, maintenance and operation of the waterworks, sewer system and departments of said city, and shall see to the enforcement of all regulations with respect to said department and with respect to all the revenues pertaining thereto; and one Commissioner who shall be known as the "Commissioner of Finance and Revenue," who shall have under his special charge the enforcement of all laws for the assessment and collection of taxes of every kind and the collection of all revenues belonging to said city from whatever source the same may be derived, and who shall also examine into and keep informed as to the finances of such city. It is expressly provided that the number by which a Commissioner was designated upon the official ballot shall bear no relation to and shall in no manner be considered in the determination of the particular position or office to be assigned to any Commissioner. Said Commissioners shall perform all of the executive duties of the respective departments to which they may be assigned, as above provided, but said board, as a whole, shall have supervision of and be responsible for the administration of each of said departments. The salary of each of said Commissioners shall be three thousand dollars per year, payable in monthly installments.

9. The Commissioners named as the head of each department shall audit all accounts or claims against it, unless he be absent or fail or refuse so to do, in which event the Mayor shall appoint another Commissioner to act in his stead during his absence, or to audit such claims and accounts as the said Commissioner shall fail or refuse to act upon; but before payment all accounts shall be acted upon and approved by said Board of Commissioners at a meeting of said board. Said board shall require a statement to be published monthly in the official newspaper of said city showing a full, clear and complete statement of all taxes and other revenue collected and expended during the preceding month, indicating the respective sources from which the moneys were derived and also indicating the disposition made thereof, and showing all disbursements during said period.

10. The Mayor and each member of the Board of Commissioners shall be required to give bond in the sum of ten thousand dollars for the faithful discharge of his duties.

11. The Board of Commissioners shall be vested with the power and charged with the duty of adopting all laws and ordinances not inconsistent with the Constitution and laws of this State touching every object, matter and subject within the purview of the local government instituted by this act.

12. Every ordinance, resolution or motion of the Board of Commissioners shall, before it takes effect, be presented to the Mayor for his approval and signature. If he approves it, he shall sign it; if he disapproves it, he shall specify his objection thereto in writing within two days and return the same to the Board of Commissioners with such disapproval. If he does not return it with such disapproval, nor sign it, it shall, after two days, be in effect and force, as if he had approved it.

A veto by the Mayor shall suspend the action of the Board of Commissioners for seven days, after which time the Board of Commissioners may pass the same over the veto of the Mayor by a majority vote, but in all such cases the Mayor shall not be deprived of his right to vote as a member of the Board of Commissioners by reason of such veto. In case the Mayor's veto is sustained, the matter shall not again come before the Board of Commissioners within six months. In ordinances or resolutions making appropriations, the Mayor may veto any or every item therein, but such veto shall not extend to the items not vetoed, and those which he approves shall become effective and those which he disapproves shall not become effective, unless passed over his veto in the manner above specified.

13. The Board of Commissioners shall have control and supervision over all the departments of the city, except as herein otherwise provided, and to that end shall have power to make and enforce such rules and regulations as they may see fit and proper for and concerning the organization, management and operation of all the departments of said city and whatever agencies may be created for the administration of its affairs. They shall have power to create such offices as they may deem necessary for a prudent and successful administration of the affairs of the city, and to fix the salaries of the persons appointed thereto; provided, that the term of any such office so created by them shall never exceed the period of one year, and they shall have power to abolish at any time any such office and to terminate the official duties and relations of the person occupying the same. The Mayor shall propose and submit to the Board of Commissioners nominations for all offices created by said board, and said nominations shall be subject to confirmation by a majority vote of the board, not including the vote of the mayor. In the event any such nomination by the Mayor shall fail of confirmation by the board, it shall be the duty of the Mayor to make a temporary appointment of an officer pro tem to discharge the duties of said position, who shall not have been rejected by the board as a nominee of the Mayor for said office, and to submit another nomination to the Board of Commissioners, and to continue to so submit other nominations until one shall be ratified and confirmed by said board.

Each member of the Board of Commissioners shall have the right to propose and name the employes in the department or departments under his immediate supervision, but a majority of the board shall have the power to reject any such proposal and to discharge any officer or employe of the city except the City Attorney, Corporation Judge and Auditor. All salaries and wages to be paid employes of the city, except as otherwise provided herein, shall be fixed and paid by the Board of Commissioners, acting as a whole, and shall not become effective unless at least three members of the board shall vote therefor.

14. The Board of Commissioners shall meet at least three times in every week in regular meeting at such times as shall be fixed by said board, at the city hall in said city, to consider and take under advisement and act upon such business as may come before them. A majority of said board shall constitute a quorum for the transaction of all business, but no action of said Commissioners shall be effective unless upon a vote of the majority of such quorum, and no ordinance shall

be passed or become effective without receiving the votes of at least three members of the board. No final action shall be taken in any matter concerning the special department of any absent Commissioner unless such business has been made a special order of the day by action at a previous meeting of the board, or such action is taken at a regular meeting of the board. Special meetings may be called by the Mayor or by any two members of said board at any time to consider only such matters as shall be mentioned in the call for said meeting, and written notice thereof shall be given to each member of said board. All sessions of said board, whether regular or called, shall be open to the public.

15. It shall be the duty of the Mayor, from time to time, to make such recommendations to the Board of Commissioners as he may deem to be for the welfare of the city, and on the first Monday in May of each year, or as soon thereafter as practicable, to submit to the Board of Commissioners the annual budget or estimate of the receipts and expenses of the city for the fiscal year, each item in which may be increased, reduced or omitted by the board, subject to the veto power of the Mayor.

16. It shall be the duty of the Board of Commissioners, on the second Monday in May, or as soon thereafter as practicable, to appropriate such sums of money, respectively, for each of the various departments of the city government as it may deem necessary for the maintenance and operation thereof during the current year. The current fiscal year shall begin at 12:01 o'clock, noon, on the first day of May of each year.

In addition to the departmental appropriations herein provided for, the Board of Commissioners shall also make such appropriations for contingent purposes, as may be deemed necessary.

The appropriations herein provided for shall be based upon estimates submitted by the Mayor in his annual budget, provided the same shall have been submitted to the board as herein provided.

The head of each department created by the Board of Commissioners shall make a written report to the Mayor, not later than the 5th day of May in each and every year, showing the operation of such department for the preceding year. These reports shall be transmitted to the Mayor and shall accompany and be made a part of the Mayor's report to the Board of Commissioners, which report shall not be made later than the second Monday in May in each year.

The Mayor shall also make such recommendations to the Board of Commissioners concerning the increase or decrease of departmental estimates as in his judgment may best serve the interests of the city. He shall also submit an estimate for a special contingent fund for the current year.

In making up the budget allowance for any current year, the Board of Commissioners shall first make provisions for the payment of the interest and the creation, setting aside and preservation of a legal sinking fund upon all of the outstanding indebtedness of the city, and make provision for the maintenance of the public school system of the city as herein elsewhere provided, and shall then make such appropriations as the remaining revenues of the city may justify, to be appropriated among the respective departments, or otherwise appropriated for public uses, as to the Board of Commissioners may seem best; provided,

however, that in no case shall the entire appropriations so made, comprehending interest and sinking fund on the bonded debt, and appropriations for all other public uses and purposes; ever exceed the estimated available resources, which shall be based upon the probable revenue of the city derived from ad valorem taxes upon the basis of the total valuation of the property for taxation for the preceding year, and of such other contingent revenues of the city as will probably accrue.

It shall be deemed a malfeasance for the Board of Commissioners to make an appropriation in the budget, the sum total of which shall exceed the estimated available or probable revenues for any current fiscal year.

17. The Board of Commissioners at its second regular meeting in June of each year, or as soon thereafter as practicable, shall levy the annual tax for such year, but special taxes or assessments allowed by this charter may be levied, assessed and collected at such times as the Board of Commissioners in each case may provide.

18. The Board of Commissioners shall have full power to provide, by ordinance, for the prompt collection of taxes assessed, levied, and imposed under this charter, and are hereby authorized, and to that end may and shall have full power and authority to sell or cause to be sold all kinds of property, real and personal, and may and shall make such rules and regulations, and ordain and pass all ordinances deemed necessary to the levying, laying, imposing, assessing and collecting of any taxes provided for in this charter. Unless otherwise provided by this act and by ordinances passed thereunder, all property in such city liable to taxation shall be assessed in accordance with the provisions of general laws of the State, in so far as applicable.

19. The Board of Commissioners shall have the management and control of the finances of the city except as otherwise herein provided. They shall have the power to appropriate money and provide for the payment of debts and expenses of the city; to provide by ordinance special funds for special purposes provided for under the provisions of this character, and to make the same disbursable only for said purposes, and to impose proper penalties for enforcing the same; to provide by ordinance for the payment of any existing and outstanding indebtedness and for the payment of any bonds that may from time to time, be issued, and shall for such purposes have the power to levy, assess and collect a special tax.

20. The Board of Commissioners shall have the power to fund or refund by ordinance the whole or any part of the existing debts of the city, or any future debt by acquiring and cancelling the evidence thereof and to issue other bonds in lieu thereof, either registered or coupon, bearing interest at a rate not greater than the original indebtedness, and to this end may apply the sinking fund belonging to any series of bonds so refunded, and may pay and retire any bond by using the sinking fund thereof.

21. Neither the Mayor nor any other member of the Board of Commissioners, nor any elective or appointive employe of the city, shall be directly or indirectly in the employ of any person, company, or corporation holding or seeking to hold any franchise of the City of Dallas, or shall receive, directly or indirectly, any wage, commission, fee, gift, favor or payment from any such franchise holder; and a violation of this

section shall ipso facto render vacant the position held by the person so violating it, and shall be punished as bribery.

No member of the Board of Commissioners or Board of Education or any other officer of the city shall be directly or indirectly interested in any work, business or contract, the expense, price or consideration of which is paid from the City Treasury, or by any assessment levied by ordinance or resolution of the Board of Commissioners; nor be the surety of any person having any contract work or business with said city for the performance of which security may be required, nor be the surety on the official bond of any officer of the city. Contracts in violation of said provision shall be void and no member of the Board of Education shall be at any time during his term of office directly or indirectly interested in or in the employ of any school book publishing or furnishing company or concern or school furniture company or concern.

22. The Board of Commissioners shall by ordinance adopt such rules and regulations for its government and order of business as its members may deem best. It shall be the judge of the qualifications and election of its members, including the Mayor, and shall have authority to recount the votes cast for either of its members, and to correct the result which may have been theretofore declared, in the event notice of a contest of any such election shall be given within thirty days after such election shall have been held. It shall also be the judge of the election and qualification of all other city officers subject to the provisions of this act applying thereto. It may punish members, or other persons, during its sittings by fine for disorderly conduct.

23. Each Commissioner and the secretary of the Board of Commissioners shall be, and they are hereby authorized to administer oaths in the municipal affairs and government of the city.

24. If a vacancy shall occur in the Board of Commissioners (excepting the Mayor) or the office of City Attorney or Corporation Judge, the mayor shall nominate a person to fill the unexpired term of such office, and submit his name to the Board of Commissioners. If such nomination shall receive the approval of three members of the board, not including the Mayor, said appointment shall take effect from the date of such confirmation. In the event said board shall fail or refuse to confirm such nomination, the Mayor shall submit another nomination of a different person for said office, and shall continue so to do until a nomination so made by him shall be confirmed by the Board of Commissioners. In the event of a vacancy in the office of City Attorney, or Judge of the corporation court, which shall not be promptly filled as above provided, it shall be the duty of the Mayor to appoint an officer pro tem to perform the duties of such vacated office, which said pro tem officer shall be entitled to receive the regular salary for said services for the time he shall perform them, and shall serve in said capacity, until said office shall be filled in accordance with this act.

In the event a vacancy shall occur in the office of Auditor it shall be the duty of the nominating board created under the provisions of this act to convene and make a nomination or nominations for said office until the same shall be filled in accordance with said provisions.

ARTICLE IV.

OTHER OFFICERS AND THEIR DUTIES.

The Mayor shall, on the second Tuesday in April, 1908, and on the fourth Tuesday in April, 1909, and biennially thereafter, submit to the Board of Commissioners a nomination for the office of City Attorney, and said board shall confirm or reject such nomination by a majority vote thereof, not including the Mayor. The votes of three members of said board shall be sufficient to confirm or to reject such nomination and in the event such nomination shall be rejected, it shall be the duty of the Mayor to submit the name of a different person to the Board of Commissioners as nominee for said office and he shall continue so to do until a nomination so made by him shall be confirmed by said board.

The city Attorney shall receive such salary as shall be fixed by the Board of Commissioners at the beginning of his term and said compensation shall not be increased or diminished during his term of office. The City Attorney chosen in 1908 shall serve until his successor shall be chosen as herein provided and shall qualify. Said officer shall represent the city in all litigation and controversies. The Board of Commissioners shall be empowered at its discretion to employ an assistant or assistants for said officer, and to fix the compensation to be paid for such service, and such City Attorney and his assistants shall have authority to administer oaths and affidavits. It shall be the duty of the City Attorney to approve in writing all proposed ordinances before they shall be adopted, or to file with the Board of Commissioners in writing his objections thereto. It shall be his duty to draft all proposed ordinances granting franchises, and in the event he shall not approve any such proposed ordinance, it shall be his duty to file with the Board of Commissioners, in writing his objections thereto. It shall be the duty of said officer to inspect and pass upon all papers, documents, contracts and other instruments in which the city may be interested. He shall be the legal advisor of the Mayor, the Board of Commissioners and Board of Education, or any committee thereof, and all city officers and employes with respect to any legal question involving an official duty or any other matter pertaining to the affairs of the City of Dallas. The City Attorney shall perform such other duties as the Board of Commissioners may direct. Whenever it shall be brought to the knowledge of the City Attorney, through the affidavit of ten credible persons or otherwise, that any person, firm or corporation exercising and enjoying any franchise or privilege from the City of Dallas has been guilty of a breach of any condition of such grant, or has failed to comply in any material matter with the terms and stipulations thereof, it shall be the duty of said officer to make report of said matter to the Board of Commissioners, together with all facts bearing upon the same which may be brought to his attention. If said board shall determine that said complaints are well founded, it shall be its duty to take such action as may be necessary; and in the event the offending corporation shall fail or refuse to conform to such orders as it may make with respect thereto, it shall be the duty of the board to direct the City Attorney to institute suit in the court having jurisdiction thereof against such person, firm or corporation so offending to obtain a judgment of forfeiture of said franchise or privilege.

2. There shall be a court for the trial of misdemeanor offenses known as the "Corporation Court," with such powers and duties as are defined and prescribed in an act of the Legislature of the State of Texas, and any acts amendatory thereof, entitled, "An Act to establish and create in each of the cities, towns and villages of this State, a State court, to be known as the 'Corporation Court' in each city, town or village, and to prescribe the jurisdiction and organization thereof, and to abolish 'municipal courts;'" said act having been presented to the Governor of Texas March 15, 1899, and not having been by him disapproved.

The Magistrate of said court shall be known as the "Judge of the Corporation Court," he shall be a qualified voter of the City of Dallas, shall be appointed by the Mayor and confirmed by the Board of Commissioners, shall hold his office for two years, unless sooner removed by impeachment, and shall receive such salary as may be fixed by the Board of Commissioners, which salary shall not be increased or diminished during his term of office. There shall be a clerk or clerks of said court, and such deputies as may be created or provided for by ordinance adopted by the Commissioners, which deputies shall be appointed by the Mayor and confirmed by the Board of Commissioners, shall be subject to removal at any time by the Board of Commissioners, and shall receive such salary as may be fixed by the Board of Commissioners.

The clerk or clerks of said court and the deputies thereof shall have the power to administer oaths and affidavits, make certificates, affix the seal of said court thereto, and generally to do and perform all things and acts usually or necessary to be performed by clerks of courts in issuing process of said courts and conducting the business thereof.

The Board of Commissioners may require such clerk, clerks or deputies created by it to perform such other duties, in addition to the duties of clerk or deputy clerk, as may be prescribed, or may provide that some other employe or employes of the city, in addition to other duties, may perform the duties of such clerk or deputy clerk, without extra compensation.

The Mayor shall within fifteen days after his election and qualification for the years 1908 and 1909, and biennially thereafter, nominate and submit to the Board of Commissioners for confirmation, the name of a person proposed by him for the office of Judge of said corporation court. Said officer shall be a regularly licensed and practicing attorney and a qualified voter of the City of Dallas, and shall have resided in said city at least three years before said appointment. He shall receive for his services such compensation as may be fixed by the Board of Commissioners and such compensation shall not be changed during his term of office.

If the Board of Commissioners should fail or refuse to confirm any nomination for judge of the corporation court, it shall be the duty of the Mayor to submit another nomination for such office and to continue so to do until a nomination shall be confirmed. The Mayor shall have authority to make a temporary appointment to fill a vacancy in said office, to continue until an appointment thereto made and submitted by him to the Board of Commissioners shall be confirmed thereby, which said temporary appointee shall not have been theretofore rejected by the Board of Commissioners as a nominee for said office.

3. The presidents of the several banks situate in the City of Dallas, incorporated under any act of Congress or the laws of the State of Texas, and in existence at the time this act shall take effect, and their successors in said offices, who shall qualify by taking the oath of office prescribed by the Constitution of the State of Texas, shall be and are hereby constituted a nominating board, which shall be empowered, by a majority vote of the acting members of said board, to nominate an Auditor for the City of Dallas. Said board shall meet within fifteen days after the first day of April of the year 1908, and shall organize by electing a president and secretary from its own members. Three members shall be sufficient to constitute a quorum. Said board shall then proceed to select, by ballot, a nominee for Auditor, and shall certify such action to the Board of Commissioners. It shall be the duty of said board, immediately on receipt of such certificate from said nominating board, to convene and to confirm or reject such nomination. If three members of said board shall vote to confirm such nomination, it shall be confirmed, and if three members of the board shall vote to reject the same, it shall be rejected, and in such event, the board shall certify its action to said nominating board, which shall then propose the name of a different person for said office, to be selected by it as hereinbefore provided, and shall thus continue to make nominations for said office until a person thus nominated shall be confirmed by the Board of Commissioners. In the event the Board of Commissioners should fail or refuse to confirm the first nomination made by said nominating board, it shall be the duty of such nominating board to designate an Auditor pro tem, who shall be empowered to perform all the duties of Auditor and shall receive the salary of said officer until said office shall finally be filled by confirmation, by the Board of Commissioners, of a nomination made by said nominating board in accordance with the provisions of this section. The person thus nominated and confirmed as Auditor in the year 1908, shall serve in said capacity until the 15th day of April, 1909, and until his successor shall be chosen and shall qualify. Within fifteen days after the first day of April, 1909, and biennially thereafter, said nominating board shall meet and propose a nomination for said office, and the same shall be acted on by the Board of Commissioners chosen during said month as herein provided. Said officer chosen in the year 1909, and thereafter, shall serve for the term of two years and until his successor shall be chosen and shall qualify.

It shall be the duty of the Auditor to examine in detail all bills, accounts and claims against the said city, and if found correct, to sign his name in approval thereof, but if found incorrect he shall return them to the party presenting the same for correction. He shall be the general accountant of the said city, and shall keep in books regular accounts of all real, personal and mixed property of the said city; of all receipts and disbursements of money; and under proper heads, separately, each source of receipt and the cause of each disbursement; and shall also keep an account with each person, including the officers, who have money transactions with the said city, crediting amounts allowed by proper authority, and specifying the particular transaction to which such entries apply. It shall be his duty at least once in each month to examine the books of account of all officers of said city charged with the receipt and disbursement of money, and if they be found incorrect,

to at once make a report in writing of the same to the Mayor. It shall also be his duty to examine all warrants and countersign the same after appropriation has been duly made to pay the same by said Board of Commissioners. He shall certify to the correctness of all monthly reports which shall be published by the Board of Commissioners, as required by Article 3 hereof. It shall be his duty to ascertain whether any expenditure made or proposed to be made by the city is excessive, either in the price of the thing purchased, the computation of the charge or otherwise, and if he shall so find, he shall make report thereon to the Board of Commissioners and state the facts in his certificate to be attached to the monthly report to be published as herein provided for. He shall receive for his services a salary of three thousand dollars (\$3000) per annum, payable in equal monthly installments, and shall give bond for the faithful performance of his duties in the sum of ten thousand dollars (\$10,000), with two or more good and sufficient sureties, to be approved by the Mayor and by the Commissioner of Finance and Revenue.

5. The City Attorney, Judge of the corporation court and Auditor, shall each serve for the period of two years; provided, the appointments thereto made in the year 1908, shall run for the period of only one year and until the successors of such officers shall be chosen. The City Attorney and Judge of the corporation court shall receive such compensation as may be fixed by the Board of Commissioners at the beginning of their terms, and such compensation shall not be increased or diminished during such terms.

6. The City Attorney, Judge of the corporation court and Auditor shall not be subject to removal from office by the Board of Commissioners, but such above named officers and Mayor and each member of the Board of Commissioners may be removed by impeachment in the manner provided by general law for the impeachment of county officers.

7. The Board of Commissioners shall have power to provide for such other officers and employes as may be necessary, to fix the compensation to be paid thereto, and to employ such service and to make such compensation therefor as may seem expedient and necessary to the board; provided, that a majority thereof shall approve such action, and provided further, that all officers other than those specially mentioned herein shall hold their offices for a term of not exceeding one year, and shall be subject to removal at any time by the Board of Commissioners.

8. The office of City Treasurer shall be let by contract to the highest and best bidder in the discretion of the Board of Commissioners. The Board of Commissioners shall, not less than thirty days prior to the expiration of the term of office of the present City Treasurer, and every two years thereafter, advertise for bids for the said office, stating what said bids shall specify and the terms on which such bids shall be received. The Treasurer appointed by contract shall nevertheless be an officer of the city and subject to the same duties as a Treasurer otherwise elected. Said Treasurer shall give such bond as the Board of Commissioners may require, conditioned for the faithful discharge of his duties. He shall receive and securely keep all moneys belonging to the city, and make all payments for the same upon an order signed by the Mayor and countersigned by the Auditor, except that payments from

the school funds shall be upon an order signed by the president of the Board of Education, countersigned by the Auditor and attested by the secretary of said board; provided, that no order shall be paid unless it shows upon its face that the Board of Commissioners or board of Education, as the case may be, has ordered its issuance, and for what purpose. He shall render a full and correct statement of his receipts and payments to the Board of Commissioners at their first regular meeting in every month, and at such other time as the Board of Commissioners may require. He shall perform such other acts and duties as the Board of Commissioners may require, and shall receive for his services five (\$5) dollars per annum.

ARTICLE V.

PUBLIC SCHOOLS.

1. The city public schools shall be under the management and control of a Board of Education, composed of a president and six members, who shall be elected on the first Tuesday of April, 1908, and at a regular election to be held biennially thereafter on the first Tuesday of April, and shall hold their offices for two years and until their successors are elected and qualified. Any vacancy occurring in the Board of Education shall be filled by an election to be held by said board, and the person elected shall hold office for the unexpired term. The members of said board shall serve without compensation, shall have exclusive control of the public schools of the City of Dallas, and shall have full and ample authority, in accordance with the provisions hereof, to provide necessary school buildings and facilities, and to open and conduct a sufficient number of schools to meet the wants of the scholastic population of the City of Dallas, so far as they can do so by prudent and judicious application of the means made subject to their administration and management. Among the powers hereby conferred on said Board of Education, the following are for greater certainty enumerated: To contract for, lease and purchase lots, and to construct buildings for school purposes, and to make all needed repairs and alterations in same; to furnish said school buildings with all appropriate furniture, fixtures and apparatus; to sell or dispose of school property when the same is necessary or advisable; to lay off the city into such school districts as, in the judgment of the said board, shall be proper; to increase or diminish said districts, and to change the boundaries thereof at pleasure; to employ superintendents, teachers and such other persons as may be necessary, and to fix their compensation and, prescribe their duties, and to establish all such regulations and rules deemed necessary by the board to provide and maintain an efficient system of public schools in the City of Dallas. The Board of Commissioners, when levying the annual tax for the fiscal year, shall levy an ad valorem tax of one-fourth of one per centum of the taxable value of the City of Dallas for that fiscal year, and said tax, when collected, shall be deposited with the City Treasurer by the Board of Commissioners to the credit of the school fund, which said sum, together with all sums received from the State, county and other school funds, shall be held by the City Treasurer subject to the order and disbursement of the Board of Education, and shall be paid out upon warrants issued by order of said Board of Education, audited by the City Auditor and signed by the president and secretary of the

Board of Education. An official statement or copy of all contracts, claims, accounts, pay rolls and demands of whatever nature whereby any money is to be disbursed or expended from the school funds and also complete annual reports showing the operations of the schools, shall be filed with the City Auditor, who shall examine, adjust and audit all claims, accounts, pay rolls and demands before same shall be paid. The school board may enter into contracts by competitive bids with publishers and dealers in school supplies for furnishing to the patrons or pupils of the public schools of the city any and all books, stationery and school supplies required by the city schools at such prices as may be agreed upon by and between the board and such publishers or dealers, in no case to exceed the list prices of the same articles in the book stores of the city, and when such contracts or agreements are made by the Board of Education it shall be the duty of the secretary of the Board of Education to keep constantly on hand, and to furnish to the patrons or pupils of the city schools, the various books, stationery and supplies thus agreed upon and at the prices agreed upon by the Board of Education: provided, that no profit, compensation or commission shall ever be allowed to or collected by said board, its secretary or any member thereof, upon the agreed or contract prices at which the publishers or dealers furnish the same to the Board of Education under any such agreement or contract; provided, that this subdivision of this act shall be subject to the provisions of the uniform text-book act applying to the same subject matter.

2. The president of the Board of Education shall be elected and hold his office as hereinbefore provided. He shall preside over all meetings of the Board of Education, and in case of a tie on any question, he shall give the casting vote, but in elections he shall vote as other members of the board. He shall be active in enforcing the laws, rules and regulations governing said board. He shall, from time to time, give information about the condition of affairs, and recommend for consideration such measures as he deems best for the schools. At the first regular meeting of the Board of Education after the general election or as soon thereafter as practicable, the president shall appoint the standing committees of the board, and the president shall be ex officio a member of all committees of the board. He shall have the power to veto any resolution, by-law, motion or order passed by the Board of Education, by filing his written objections within three days after the passage thereof, Sundays and day of passage excluded. At the next meeting, or as soon thereafter as practicable, the board shall consider such objections, and unless the board shall pass the measure over his veto by a two-thirds vote of all the members, taken by yeas and nays, such measure shall be of no effect. The regular meetings of the board shall be at such times as the board may fix by resolution or otherwise, but the president, on his own motion, may call special meetings by written notice thereof served upon each member or left at his place of abode or usual place of business. At the first meeting of each new board, or as soon thereafter as practicable, the board shall elect one of the members vice-president, who shall hold his office for two years. In case of absence, failure, inability or refusal of the president to act, the vice-president shall perform the duties of the president. In

the absence of the president and vice-president, any one of the members may be chosen to preside.

3. The Board of Education shall have power, when money for that purpose is available from the general fund, or is voted therefor by special tax, to establish and maintain a system of kindergartens in connection with the public schools.

4. Whenever the amount involved in any purchase or sale of property proposed to be made by the Board of Education shall equal or exceed the sum of one thousand dollars, it shall be the duty of said board to certify its action with respect to said matter to the Board of Commissioners, and said board shall have the power to veto and nullify said action within five days after being notified thereof, but to become effective such veto must be supported by and receive the votes of four members of said board and such action must be taken within five days after notice in writing of the terms of such proposal shall have been filed by the Board of Education with the Board of Commissioners.

ARTICLE VI.

THE PARK BOARD.

1. Within thirty days after the 1st day of April, 1908, or as soon thereafter as practicable, and on the fourth Tuesday in April, 1909, and biennially thereafter, the Mayor shall appoint four qualified voters of the City of Dallas, subject to confirmation by the Board of Commissioners, who shall, with the Mayor, constitute the Park Board of said city, and who shall serve for a period of two years and until their successors are appointed and qualified. Said Park Board shall have exclusive jurisdiction over the control, management and maintenance of the public parks of the City of Dallas with power to acquire in the name of the city land for park purposes, except as herein otherwise provided.

2. All funds appropriated and set aside for public parks, whether derived from appropriations made by the Board of Commissioners, or from tax levies, or from any other source whatsoever shall be deposited with the City Treasurer to the credit of the park fund, and paid out only upon order of said Park Board after same shall have been audited by the City Auditor.

3. The Park Board shall adopt such rules and regulations as it may deem best for the management of the public parks of the city, and shall elect one of its members president of the Park Board.

The said Park Board shall render to the Board of Commissioners quarterly reports for the quarters ending the last day of September, December, March and June, or as soon after the end of each quarter as practicable, showing in detail all the transactions of said board for that quarter.

4. The Board of Commissioners when levying the taxes for each fiscal year shall levy an ad valorem tax of one-tenth of one per cent of the assessed value of all real and personal property in the city not exempt from taxation by the Constitution and laws of the State for the use and benefit of the park fund. Said tax, when collected, shall be deposited with the City Treasurer to the credit of the park fund, and said sum, together with all sums received from other sources, shall be held by the City Treasurer subject to the order and disbursement of the Park Board

for acquiring additional land for parks and improving and maintaining parks, and shall be paid out upon warrants issued by the Park Board, signed by the president of said board, and countersigned by the City Auditor.

5. Said Park Board shall have power to contract for and to let the use of the Fair Park acquired and now owned by the City of Dallas, heretofore known as State Fair Grounds, or any portion of, or addition thereto, for public fairs and public race meets, with authority to sell on said grounds pools on horse races, when conducted thereon under the supervision of a regularly chartered Fair Association, and also for other public entertainments for limited periods of time, including Sundays, during which admission fees may be charged to and in said grounds or any portion thereof, and all contracts and arrangements heretofore made with the City of Dallas by its City Council in relation to said grounds shall be binding upon and shall be observed by said Park Board, and in the performance of such contracts and arrangements, the duties, functions and authority imposed on the City Council or its committees by the terms of such contract or arrangement, shall be instead imposed upon and assumed by said Park Board. The Park Board shall have the exclusive power to direct, and control the direction of the funds derived from the use of said grounds in the improvement and maintenance of said grounds and appurtenances, subject to existing and future contract rights.

6. The four Park Commissioners shall possess the same qualifications and be subject to the same disqualifications provided by law for Commissioners of the City of Dallas, and shall serve without compensation.

The Park Board may select such guards as they may deem necessary to protect the parks and property thereon in the City of Dallas, and such guards shall be commissioned as policemen by the proper municipal authorities at the request of said board, but such persons shall be under the control of the Park Board and their compensation shall be fixed by said board, and they shall be subject to removal or dismissal at pleasure and without cause by said board.

7. All funds arising from the levy of the tax of one-tenth of one per cent under an ordinance passed by the City Council of the City of Dallas to pay warrants for the purchase of what is known as Fair Park, formerly the property of the Texas State Fair, over the amount necessary to pay for said warrants and interest thereon, shall be deposited with the City Treasurer to be used exclusively in acquiring additional ground for or improving said Fair Park.

ARTICLE VII.

ASSESSMENT AND COLLECTION OF TAXES.

1. The Assessor and Collector of taxes shall be under the immediate supervision of the Commissioner of Finance and Revenue, who shall be directly responsible for the performance of all duties relating to said office. He shall assess all taxable property in such manner and within such time as the Board of Commissioners may prescribe. He shall make duplicate assessment rolls and on their completion and approval by the Board of Commissioners shall deliver one to the Commissioner of Finance and Revenue, and retain one for his use in collections. He shall be authorized to require property holders to render a

correct account of their property, under oath or affirmation to be by him administered. He shall collect all taxes due the city whether the same be general, special assessment, occupation, license, or otherwise, and shall pay the same over to the City Treasurer within twenty-four hours of their collection, making duplicate receipts therefor, one of which he shall retain, and the other he shall turn over to the Board of Commissioners. He shall monthly or oftener, if required, make a detailed report to the Board of Commissioners of all collections made by him. He shall be vigilant and see that no business of any kind is conducted unless license or occupation tax due therefor shall have first been paid. Said officer, and the Commissioner of Finance and Revenue, shall be responsible for all acts of the deputies in said offices. He shall be active in collecting all delinquent taxes and enforce their collection as herein provided, and as may be provided by ordinance. He shall give bond in such amount and form as the Board of Commissioners may prescribe, with good and sufficient sureties. The Board of Commissioners may require a new bond of him, if in their opinion the existing bond is insufficient, and whenever such bond is required, he shall perform no official act until such bond shall be given and approved. He shall have all the powers and perform all the duties herein provided, and such others as the Board of Commissioners may confer and prescribe. For any failure to deposit with the City Treasurer within twenty-four hours of the collection thereof, all moneys collected by him, the said Assessor and Collector of taxes and the sureties on his bond shall be required to pay interest at the rate of 10 per cent per annum on such money until deposited, and the Board of Commissioners shall have power to remove said Assessor and Collector of taxes from office for failure to deposit any collections as required, and it shall be their duty to remove said officer for such offense if it shall be persisted in by him.

If the Assessor and Collector of taxes purposes to increase any assessment over the amount assessed in the preceding year, he shall cause notice stating the fact that the assessment of the property owner is about to be increased, without specifically designating the particular property or the amount to be increased, to be addressed to the owner, agent or representative thereof, and mailed at the postoffice in the City of Dallas, and shall give further notice by publication for one day in some newspaper published in the City of Dallas, and in such newspaper publication the names of as many owners as the Assessor and Collector of taxes shall see fit may be included in one notice, provided, when the owner is unknown the newspaper notice shall be sufficient.

The Assessor and Collector of taxes shall have the power under such regulation and method as may be prescribed by the Board of Commissioners by ordinance, to prorate the taxes against tracts of land owned by different owners which have been taxed together as one tract, and to divide and apportion the lien to each of the several tracts according to its proportion of the entire assessment.

2. The Board of Commissioners shall have full power to provide by ordinance for the prompt collection of taxes assessed, levied and imposed under this charter, and are hereby authorized, and to that end may and shall have full power and authority to sell or cause to be sold all kinds of property, real and personal, and may and shall make such

rules and regulations and ordain and pass all ordinances deemed necessary to the levying, laying, imposing, assessing and collecting of any taxes provided for in this charter. Unless otherwise provided by ordinance and this act all property in such city liable to taxation shall be assessed in accordance with the provisions of the general laws of the State in so far as applicable.

3. The Board of Commissioners shall have power by ordinance to regulate the manner and mode of making out tax lists, inventories and appraisements of property therein, and to prescribe the oath that shall be administered to each person on rendition of his property, and prescribe how, when and where property shall be rendered, and to prescribe the number and form of assessment rolls and fix the duties and define the powers of City Assessor and Collector, and adopt such measures as the Board of Commissioners may deem advisable to secure the assessment of all property within the city limits, and collect the tax thereupon, and may provide a fine for all persons neglecting, failing or refusing to render their property for taxation.

4. The Assessor and Collector of taxes shall, at least ten days before the 1st day of January of each year, give public notice by hand bills circulated through the city and by advertisement in some paper, that all persons owning or controlling, as agent or otherwise, any personal property or real estate subject to municipal taxation, are required to render same for taxation on or before the 1st day of April of each year. All merchants doing business in the city are required within the same time to furnish the Assessor and Collector of taxes a true statement, verified by affidavit, of all goods, wares and merchandise owned or kept on hand by such merchant on the 1st day of January. Any merchant failing to comply with this requirement shall be liable to such fine as may be imposed by ordinance.

5. If the Assessor and Collector of taxes shall discover any real or personal property which was subject to taxation for any previous year, and which from any cause has escaped taxation for that year, he shall assess the same in a supplement to his next assessment roll at the same rate under which such property should have been assessed for such year, stating the year, and the taxes thereon shall be collected the same as other assessments; provided, that such supplement roll may be made at any time and reported to the Board of Commissioners for its approval, and any number of such rolls may be made that may be necessary. The taxes assessed in such supplement rolls for years previous to the approval of such rolls shall be due at once upon the approval of such rolls by the Board of Commissioners, and such taxes may bear interest at the rate of six per cent per annum from the date on which the same would have been delinquent if levied and assessed, and if the same shall not be paid within thirty days after the date of such approval, the City Collector shall proceed to collect the same by advertisement and by sale of such property as soon as practicable; such advertisement and sale to be made in the same manner and for the same time as in cases of the sale of such property for other city ad valorem taxes, as prescribed by the city charter; provided, that a misnomer of, or failure to name the owner in the assessment roll shall not affect the validity of the assessment of any taxes; and, provided further, that when such taxes have not been attempted to be assessed for such previous

year, such taxes shall bear interest only from the date of the approval of the supplement rolls. The Assessor and Collector of taxes may in any year re-assess property which, because of irregularity in the assessment, of any previous year may have been improperly assessed; such re-assessment shall be at the value at which it should have been assessed in any such year, and property owners of such property shall take notice of such re-assessment, if made prior to the 1st of April in any year, but if made after such date, notice shall be given by the Assessor and Collector of taxes as in case of the raising of an assessment. Any property owner whose property has been re-assessed may appeal to the Board of Appeals as in case of an original assessment.

6. The Assessor and Collector of taxes shall assess all property which for any cause has not been rendered, placing such valuation thereon as he may deem just. If the owners of such property are unknown, such assessment may be made in the name "unknown."

7. No irregularity in the time or manner of making or returning the city assessment rolls or the approval of such rolls shall invalidate any assessment.

8. All property, real and personal, shall be rendered for taxation by the owner thereof or his agent, as provided by the laws of the State for the rendition of property for assessment by the county; provided, however, that in making such renditions the owner or agent shall not be required to state the value of the real property, but shall furnish to the Assessor and Collector, verified by the oath of the party making such rendition, a full and complete list and schedule of all property, real and personal, belonging to the person, firm or corporation in whose name such property is rendered. It shall be the duty of the Assessor and Collector to value each and every item of the property so rendered in accordance with the fair market price thereof upon a basis of valuation to be applied alike to all taxpayers, and to transmit to the Board of Commissioners all renditions thus made together with a statement by him, verified by his oath, to the effect that he has truly, fairly and equally valued all such property. The Board of Commissioners, sitting as a Board of Equalization and Appeals, shall revise the tax rolls, and it shall be their duty to correct all unequal assessments, and to increase or reduce the valuation fixed by the Assessor and Collector, as the case may require, so as to equalize the basis and method of assessment adopted for all such renditions. It shall also be their duty to hear and fairly determine all appeals from property assessments fixed by them or under their authority. It shall be the duty of the Board of Commissioners to adopt such rules and regulations from time to time as to them may appear necessary to secure complete renditions for assessments of all taxable property in the city.

The Board of Commissioners shall cause to be prepared, as soon as practicable after the tax rolls shall be revised and finally adopted, an alphabetical list of the taxpayers of the city, together with the total amount of property assessed against each, which list shall be preserved in the office of the City Secretary and shall be accessible to the public.

9. A lien is hereby created on all property, personal and real, in favor of the City of Dallas, for all taxes, ad valorem, occupation or otherwise. Said lien shall exist from January in each year until the taxes are

paid. Such lien shall be prior to all other claims, and no gift, sale, assignment or transfer of any kind, or judicial writ of any kind, can ever defeat such lien, but the Assessor and Collector of taxes can pursue such property, and whenever found, may seize and sell enough thereof to satisfy such taxes.

10. If anyone against whom a personal tax is assessed, and which is due and unpaid, whether the same be delinquent or not, shall have removed out of the city, or shall be about to remove out of the city, or shall have removed or about to remove his personal property out of the city, it shall be the duty of the Assessor and Collector of taxes to proceed at once and collect such taxes by seizure and sale of any personal property of such person to be found in the City of Dallas or anywhere in the State of Texas.

11. All taxes shall be payable at the office of the Assessor and Collector of taxes and the Board of Commissioners shall have full power to sell or cause to be sold, all personal and real property for taxes due, and shall make all rules and regulations necessary for such purpose.

12. No demand for taxes shall be necessary, but it is hereby made the duty of every person or corporation subject to taxation to attend at the office of the Assessor and Collector of Taxes some time between the second Monday in June and the first day of November in each year and pay his or her taxes. If any taxpayer shall fail to pay such taxes before the first day of November after the same shall become due, the same shall be delinquent and bear interest at the rate of six per cent per annum. Upon all taxes paid or collected after the first day of November the Assessor and Collector of Taxes shall collect from the delinquent taxpayer a penalty of two per cent of the total amount of taxes collected from or paid by such taxpayer. On all taxes paid or collected after the first day of December next following the time when such taxes shall have become due, the Assessor and Collector of taxes shall collect a penalty of four per cent on the total amount of taxes paid or collected. On all taxes paid or collected after the first day of January next following the date on which such taxes shall have become due, the Assessor and Collector of Taxes shall collect a penalty of six per cent on the total amount of taxes paid or collected. On all taxes paid or collected after the first day of February next following the time at which such taxes have become due, the Assessor and Collector of taxes shall collect a penalty of ten per cent on the total amount of taxes paid or collected, which penalty shall be cumulative of and in addition to the interest provided for by this section and such penalties shall be an obligation of the taxpayer, and be secured by the same lien and collected in the same manner as the taxes.

13. The Assessor and Collector of Taxes shall, by virtue of his tax rolls, have power and authority to seize and levy upon personal property and real estate and sell the same to satisfy delinquent taxes. When he seizes personal property for such purposes he shall keep the same at the expense of the owner until the sale is made, and shall give notice of the time and place of sale of same by posting a written notice at the city hall door and one at the court house in the City of Dallas, at least ten days before the date of sale. He shall sell the same to the highest bidder for cash for all taxes, interest, cost and expense of caring for said property, and shall make an entry in the book of sales of the amount

realized; all such sales shall be made at any door of the city hall.

14. Before sales of real estate are made notice of the time and place of sale, together with, as near as may be, a description of the property shall be given by posting two notices, one at the court house and the other at the city hall in the City of Dallas; also by publication in some newspaper of the city, for at least three weeks, which shall contain a statement of the amount due on each particular piece of ground; all such sales shall be made at any door of the city hall specified by ordinance.

15. The Board of Commissioners shall have full power to do, or cause to be done, everything whatsoever necessary to enforce a prompt and valid assessment and collection of all taxes and assessments provided for in this charter, and to make all regulations necessary for a valid assessment of such taxes and for the sale of property for said taxes and assessment.

16. The Assessor and Collector of Taxes shall, where any real estate has been sold for taxes, make and execute a deed to the purchaser for the property sold, which deed shall be prima facie evidence of the following facts:

First. That the lot or lots, or property conveyed, was or were subject to taxation and assessment at the time of such sale, and at the time taxes thereon were levied and assessed, and that such taxes were regularly levied and assessed in all respects according to law.

Second. That such taxes were not paid in whole or in part at any time before such sale, and that a lien existed on the property conveyed in such deed for taxes.

Third. That the real estate therein conveyed was advertised according to law.

Fourth. That the property conveyed was advertised according to law, was regularly and lawfully sold for taxes, which were delinquent at the time of the advertisement and sale.

Fifth. When such property shall have been sold to the City of Dallas or any other purchaser, at such sale, either for general or special taxes, the title acquired by the city, or such purchaser, shall not be disputed by any person whomsoever, or for any cause whatever, except upon tender to said city, or purchaser, of the taxes lawfully due on such property for which such sale was made, together with lawful interest thereon, and all accrued penalties and costs, as provided by the city charter of the City of Dallas.

17. A sale of personal property for delinquent taxes shall convey with it an absolute title, and the owner shall have no right to redeem the same.

18. The city shall have the right to become a purchaser of property at tax sales, and the Mayor shall attend such sales for such purpose, and may empower any person to so bid on behalf of the city.

19. Whenever any real property is bid off to the city, or to any individual, for delinquent taxes, the owner or attorney, or his agents may redeem the same at any time within two years from day of sale by paying the following amounts: All taxes paid or due, ten per cent per annum interest thereon from the time they become delinquent, and two and one-half (\$2.50) dollars as costs on each piece of property sold, and as a further penalty, a sum equal to twenty-five per cent of the

amount of the delinquent tax if redeemed in three months; fifty per cent penalty if redeemed in six months; seventy-five per cent penalty if redeemed in one year, and one hundred per cent if redeemed thereafter within two years, the said penalties to go to the purchasers at tax sales, whether the purchaser be the city or an individual.

20. If any real property sold for taxes under the provisions of this act shall not be redeemed within two years from the day of sale, the holder of the tax deed shall have the right to bring suit in any district court in the County of Dallas to have the absolute title to such real estate, without any equity of redemption, vested in him.

21. All levies of ad valorem taxes heretofore made by the City of Dallas, and all assessments heretofore made, and assessment rolls heretofore placed in the hands of the City Assessor and Collector of Taxes for collection are hereby validated, and the same shall be legal and binding, regardless of any irregularity that may exist in the manner of making such levies, and the making and returning of such assessment rolls. This provision shall apply to all suits and actions now pending, as well as those hereafter prosecuted.

22. In any suit by the City of Dallas for the collection of any delinquent tax where it shall appear that the description of any property in the city assessment rolls shall be insufficient to identify such property, the city shall have the right to set up in its pleading a good description of the property intended to be assessed, and to prove the same, and to have its judgment foreclosing its tax lien upon the same, and personal judgment against the owner for such taxes, the same as if such property were fully described upon the assessment rolls.

23. When the owner of any property, or his agent, shall render any property to the Assessor and Collector of Taxes for assessment, and such property is assessed in accordance with the description furnished by such owner or his agent, the sufficiency of such description shall not be disputed by such owner in any action or suit for the collection of such taxes, but the same shall be binding upon such owner, and shall be sufficient for all purposes of such assessment.

24. The provisions herein for the collection of taxes shall not be construed to prevent the city from filing suit in any court of competent jurisdiction for the collection of any taxes due on real estate, as well as personal property, and for the enforcement of levies for such taxes; and the assessment rolls shall be prima facie evidence of the facts stated in said rolls and that all taxes assessed on such rolls have been regularly levied and assessed in accordance with the provisions of this charter and of the law; and no irregularity in the manner of levying or assessing taxes shall invalidate the same unless it appears from affirmative proof that such irregularity operated injuriously to the taxpayer attempting to avoid the payment of such tax. Nothing in this section shall prevent the Board of Commissioners from hearing all complaints as to erroneous and unjust assessments, and said Board of Commissioners is hereby empowered and it is hereby made their duty to hear such complaints, and said Board shall have power within one year after this act goes into effect, and not thereafter to readjust, compromise and settle all disputes with reference to the legality or validity of taxes claimed to be due by any person or persons upon any real estate within the city. They may reduce former assessments on satisfactory proof that the same was excessive; such

settlements when certified to by the Board of Commissioners to be filed with the Assessor and Collector of Taxes who shall accept payment of taxes in accordance with and thereafter a tax receipt for the amount of said taxes in full for all such years as aforesaid shall be accepted in full satisfaction for said taxes.

ARTICLE VIII.

INITIATIVE AND REFERENDUM OF ORDINANCES.

1. Any proposed ordinance may be submitted to the Board of Commissioners by a petition signed by registered electors of the city equal in number to the percentages hereinafter required. The signatures to the petition need not all be appended to one paper, but each signer shall add to his signature his place of residence, giving street and number. One of the signers of each paper shall make oath before an officer competent to administer oaths that the statements therein made are true, and that each signature to the paper appended is the genuine signature of the person whose name purports to be thereunto subscribed. Within ten days from the date of filing such petition the City Secretary shall examine and ascertain whether or not said petition is signed by the requisite number of qualified electors, and if necessary the Board of Commissioners shall allow him extra help for that purpose, and he shall attach to said petition his certificate showing the result of such examination. If by the Secretary's certificate the petition is shown to be insufficient it may be amended within ten days from the date of said certificate. The Secretary shall, within ten days after such amendment, make like examinations of the amended petition, and if his certificate shall show the same to be insufficient, it shall be returned to the person filing the same, without prejudice, however, to the filing of a new petition to the same effect. If the petition shall be found to be sufficient, the Secretary shall submit the same to the Board of Commissioners without delay.

If the petition accompanying the proposed ordinance be signed by electors equal in number to 15 per cent of the entire vote cast for all candidates for Mayor at the last preceding general election, at which a Mayor was elected, and contains a request that said ordinance be submitted forthwith to a vote of the people at a special election, the Board of Commissioners shall either:

(a) Pass said ordinance without alteration within twenty days after the attachment of the Secretary's certificate of sufficiency to the accompanying petition (subject to referendary vote under the provisions of this charter); and if the ordinance shall be passed by the Board of Commissioners, but shall be vetoed by the Mayor and on reconsideration shall fail of passage by the Board of Commissioners, then within five days after determination that said ordinance shall have so failed of final adoption the Board of Commissioners shall proceed to call a special election at which said ordinance, without alteration, shall be submitted to a vote of the people; or

(b) Forthwith after the secretary shall attach to the petition accompanying such ordinance his certificate of sufficiency, the Board of Commissioners shall proceed to call a special election, at which said ordinance, without alteration, shall be submitted to a vote of the people.

If the petition be signed by electors equal in number to at least 5 per cent, but less than 15 per cent, of the entire vote cast for all the

candidates for mayor at the last preceding general election at which a Mayor was elected, then such ordinance, without alteration, shall be submitted by the Board of Commissioners to a vote of the people at the next general municipal election that shall occur at any time after thirty days from the date of the Secretary's certificate of sufficiency attached to the petition accompanying such ordinance.

The ballots used when voting upon said ordinance shall contain the words, "For the Ordinance" (stating the nature of the proposed ordinance,) and "Against the Ordinance" (stating the nature of the proposed ordinance). If a majority of the qualified electors voting on said proposed ordinance shall vote in favor thereof, such ordinance shall thereupon become a valid and binding ordinance of the city, and any ordinance proposed by petition, or which shall be adopted by a vote of the people, cannot be repealed or amended except by a vote of the people,

Any number of proposed ordinances may be voted upon at the same election, in accordance with the provisions of this section of the charter, but more than one special election shall not be held in any period of six months.

The Board of Commissioners may submit a proposition for the repeal of any such ordinance or for amendments thereto, to be voted upon by any succeeding general city election, and should such proposition so submitted receive a majority of the votes cast thereon at such election, such ordinance shall be repealed or amended accordingly.

Whenever any ordinance or proposition is required by this charter to be submitted to the voters of the city at any election, the City Secretary shall cause the ordinance or proposition to be printed, and he shall enclose a printed copy thereof in an envelope with a sample ballot, and mail the same to each voter at least ten days prior to the election, but the Board of Commissioners may order such ordinance or proposition to be printed in the official newspaper of the city and published, and may order that such publication shall take the place of the printing and mailing of the ordinance or proposition and of the sample ballots as first above provided.

2. No ordinance passed by the Board of Commissioners, except when otherwise required by the general laws of the State, or by the provisions of this charter respecting street improvements, and except an ordinance for the immediate preservation of the public peace, health or safety, which contains a statement of its urgency and is passed by a four-fifths vote of the Board of Commissioners (but no grant of any franchise shall be construed to be an emergency measure, but all franchises shall be subject to the referendary vote herein provided), shall go into effect thirty days from the time of its final passage and its approval by the Mayor; and if during said thirty days a petition signed by electors of the city equal in number to at least fifteen per cent of the entire vote cast for all candidates for Mayor at the last preceding general election at which a Mayor was elected, protesting against the passage of such ordinance, shall be presented to the Board of Commissioners, the same shall thereupon be suspended from going into operation, and it shall be the duty of the Board of Commissioners to reconsider such ordinance, and if the same is not entirely appealed the Board of Commissioners shall submit the ordinance, as is provided in Section 1 of Article VIII of this City Charter, to the vote of the electors of the city, either at the next general election, or at a special municipal election to be called

for that purpose, and such ordinance shall not go into effect or become operative, unless a majority of the qualified electors voting on the same shall vote in favor thereof. Said petition shall be in all respects in accordance with the provisions of said section 1 of article VIII, except as to the percentage of signers, and be examined and certified by the Secretary, and in all respects as is therein provided.

ARTICLE IX.

RECALL OF ELECTIVE OFFICERS.

The holder of an elective office may be removed at any time by the qualified voters of the City of Dallas. The procedure to effect the removal of an incumbent of an elective office shall be as follows: A petition signed by the qualified voters of said city, equal in number to at least 35 per cent of the entire vote cast for candidates for the office of Mayor on the final ballot at the last preceding general municipal election, demanding the election of a successor of the person sought to be removed, shall be filed with the City Secretary; provided, that the petition sent to the Board of Commissioners shall contain a general statement of the grounds for which removal is sought. The signatures to the petition need not all be appended to one paper, but each signer shall add to his signature his place of residence, giving the street and number. One of the signers of each such paper shall make oath before an officer competent to administer oaths that the statements herein made are true, and that each signature to the paper appended is the genuine signature of the person whose name purports to be thereunto subscribed. Within ten days from the date of filing such petition the City Secretary shall examine, and from the list of qualified voters of said city, ascertain whether or not said petition is signed by the requisite number of qualified voters, and he shall attach to said petition his certificate showing the result of said examination. If by the Secretary's certificate, the petition is shown to be insufficient, it may be amended within ten days from the date of said certificate. The City Secretary shall, within ten days after such amendment, make like examination of the amended petition, and if his certificate shall show the same to be insufficient, it shall be returned to the person filing the same, without prejudice, however, to the filing of a new petition to the same effect. If the petition shall be found to be sufficient, the City Secretary shall submit the same to the Board of Commissioners without delay.

If the petition shall be found to be sufficient, the Board of Commissioners shall order and fix a date for holding the said election, not less than thirty days, nor more than forty days from the date of the Secretary's certificate to the Board of Commissioners that a sufficient petition is filed.

The Board of Commissioners shall make or cause to be made, publication of notice and all arrangements for holding of such election, and the same shall be conducted, returned and the result thereof declared in all respects as are other city elections, and a majority of all the votes which shall be cast at such election shall be necessary to elect. In the event no candidate shall receive such majority at the first election, a second election shall be held in accordance with the provisions of article III hereof. The successor of any officer so removed shall hold office during the unexpired term of his predecessor. Any person sought to be removed

may be a candidate to succeed himself, and unless he requests otherwise in writing, the City Secretary shall place his name on the official ballot without nomination. In any such removal election the candidate receiving the highest number of votes shall be declared elected. At such election if some other person than the incumbent receives the highest number of votes, the incumbent shall thereupon be deemed removed from the office upon the qualification of his successor. In case the party who receives the highest number of votes should fail to qualify within ten days after receiving notification of election, the office shall be deemed vacant. If the incumbent receives the highest number of votes he shall continue in office.

ARTICLE X.

STREET AND SIDEWALK IMPROVEMENTS.

SECTION 1. The term "Street Improvements" as embraced in this Article, shall include the improvement of any street, avenue, alley, highway, public place or square, or any portion thereof, within the city, by filling, grading, raising, macadamizing, re-macadamizing, paving, repairing or otherwise improving the same, or by construction or reconstruction of sidewalks, curbs and gutters, or repairing the same; and shall also include the laying out, opening, narrowing, straightening, or otherwise establishing, defining, and locating any street, avenue, public alley, square, place or sidewalk; and said term shall also include any other street improvement of a public nature and for a public benefit.

(a) The term "Public Highway," wherever used hereafter in this article shall be deemed to include any street, avenue, alley, highway or public place or square, or any portion thereof, with the City of Dallas, dedicated to public use.

(b) The Board of Commissioners shall have power to order the improvement of any public highway or highways, or parts thereof, within the City of Dallas, and shall have power to prescribe the nature and extent of such improvements.

(c) The Board of Commissioners shall have power to cause sidewalks, curbs and gutters to be constructed, reconstructed, or repaired, under and by virtue of the terms of this article and the various subdivisions thereof, either separately or together with other improvements; provided, that the cost of constructing, reconstructing or repairing sidewalks shall be borne entirely by the owners of property abutting upon such sidewalks; and provided that the right of the Board of Commissioners to order the construction, reconstruction or repair of such sidewalks, curbs and gutters, under the terms of this article and the various subdivisions thereof, shall be exclusive of and in addition to, the powers hereinafter in this charter conferred upon such Board of Commissioners to order such improvements.

(d) Subject to the terms thereof, the cost of improving any public highway may be paid wholly by the city, or partly by the city and partly by the owners of property benefitted by such improvement and abutting upon the public highway, or portion thereof, ordered to be improved; provided, that when any person, firm or corporation owns any railroad or street railroad or railroad switch of any kind on such public highway, or portion thereof, ordered to be improved, such person, firm or corporation shall pay the whole cost of such improvement between the rails and tracks and for two feet on each side of the rails of such railroad or

street railroad and the city shall be relieved of the part of the costs to be paid by such road. The pro rata share of the cost of such improvement payable under the terms hereof by any railroad or street railroad, or the owners thereof, together with all costs of collecting the same, shall be a special tax against, and secured by a lien upon the roadbed, ties, rails, fixtures, rights and franchises of such railroad or street railroad and the owners thereof. Whenever a contract shall be let for any such improvement, the Board of Commissioners shall levy a special tax upon the roadbed, ties, rails, fixtures, rights and franchises of such railroad or street railroad for the pro rata share due from such road for improvements between their tracks and rails and two feet on each side thereof. Said tax shall be levied at or after the time such contract is let or executed, and shall become due and delinquent as the ordinance levying the same may specify, shall be a lien from the time of levy and the proceeds thereof shall be used for the payment of the costs of such improvement. If said tax be not paid as provided for by ordinance, then collection shall be enforced, as the collection of other taxes, by advertisement and sale of the property, rights and franchises levied upon; provided, it shall not be necessary to sell at the same time as for delinquent ad valorem taxes. At any such sale the City Tax Collector, or such other officer as may be designated by the Board of Commissioners, shall execute to the purchaser a deed similar to the one executed when property is sold for ad valorem taxes. Such assessment and lien may also be enforced by suit brought in any court having jurisdiction thereof. The lien provided for shall be a first and prior lien paramount to all encumbrances except taxes, upon the roadbed, ties, rails, fixtures, rights and franchises of the person, firm company or corporation owning the rail road or street railroad as aforesaid.

(e) The Board of Commissioners shall have power, by resolution, to order the making of the public improvements mentioned in this article, or any of them, by majority vote, and the passage of such resolution shall be conclusive of the public necessity therefor and the benefits thereof, and no notice of such action by the board of commissioners shall be requisite to its validity. Such resolution shall, in general terms, set forth the nature and extent of the improvement or improvements to be made, the section or sections of any public highway or highways to be improved, the material or materials with which the improvements are to be constructed, and the method or methods under which the costs of such improvements are to be paid. Such resolution may specify that said improvements may, at the election of the commissioners be constructed from different materials, and may specify different or alternative methods of making such improvements, and providing for the payment of the costs thereof.

Upon the passage of such resolution it shall be the duty of the city engineer to forthwith prepare specifications for the said improvement, which specification shall embrace the different materials or different plans or methods, under which the said improvements or part thereof, are to be constructed or paid for, if such different materials or alternative plans or methods of construction or payment are specified in said resolution, and such specifications shall also describe the character of bond or bonds to be required of the successful bidder for the construction of said improvements or the maintenance thereafter as hereinafter provided. When such specifications have been prepared, they shall be submitted to the

Board of Commissioners for their approval. The Board of Commissioners shall have power to require of the contractor or contractors to whom the work may be let, a bond for the faithful performance of the contract, and also for the maintenance of the work in good condition at the cost of the contractor for a term not more than five years from the completion thereof, and for the maintenance thereof by the contractor at the cost of the city for an additional term of not exceeding five years from the completion of such work. The bonds (if any) required by the board of commissioners to be executed by the contractor, shall be executed by such contractor or contractors to whom the work may be let, together with one corporate surety acceptable to said board of commissioners which shall be a surety company authorized to do business within the State of Texas.

When specifications have been adopted for such improvements by the Board of Commissioners, it shall be the duty of the City Secretary, or such other officer as may be designated by the Board of Commissioners, to at once advertise for sealed bids for the construction of such improvements in accordance with the specifications adopted therefor. Such advertisement shall be inserted in a daily paper of general circulation in the City of Dallas, and shall state the time within which bids may be received as prescribed by the board of commissioners, which shall be not less than ten or more than fifteen days from the insertion of said advertisement. Bids shall be filed with the City Secretary, or such other officer as the Board of Commissioners may designate, and shall be opened and read in public meeting of the Board of Commissioners. The Board of Commissioners shall have the right to accept such bids as it shall deem most advantageous to the city and the owners of the property abutting upon the public highway named to be improved, or may reject any and all bids; and where an improvement is ordered upon different specifications, or for the construction of work, or part thereof, with different materials or under different plans or methods of construction or payment for such improvement, the Board of Commissioners shall have full power, after opening bids, to select such methods, plan or materials for making said improvement, or any part thereof, as it may deem best, and to let the work to such bidder and upon such bid as it may select, subject to the terms thereof. No bid shall be amended, revised or changed after being filed.

(f) When bids for such improvements have been accepted by the Board of Commissioners, the city shall enter into contract with the contractor or contractors to whom the work has been let for the performance thereof, which contracts shall be executed in the name of the city by its Mayor and attested by the City Secretary, or such other officer as may be designated by the Board of Commissioners, with the corporate seal. The contractor or contractors to whom the said work has been let, shall execute such bond or bonds as may be required by the Board of Commissioners, and as herein provided. Such contract and bonds, if satisfactory, shall be approved by the Board of Commissioners.

(g) Exclusive of the cost of making any improvements between, and two feet on each side of the tracks and rails of railroads and street railroads, which cost is to be assessed against and wholly paid by the owners of such railroads and street railroads as herein provided, and subject to the terms hereof, the City of Dallas, acting by its Board of

Commissioners, shall have power to assess the whole cost of constructing, reconstructing and repairing any sidewalk, and not to exceed two-thirds of the cost of making any other improvements ordered under the terms hereof, against the owners of property abutting upon the public highway or highways, or part of section thereof, upon which such improvements are to be constructed, and who are specially benefitted thereby, and shall have power to fix a lien against such property to secure the payment of the proportion of such costs assessed against the owners of such property; provided, that in no event shall such costs be assessed against such owners or their property, or their personal liability therefor finally determined, until after the hearing hereinafter mentioned, and after the adjustment of equities between such owners; and provided further, that the cost assessed against any property or owner thereof, shall not exceed the amount of the special benefit in enhanced value, which such property shall receive from such improvement.

The proportion of the costs of such improvement which may be assessed against any such property or its owners, shall be in proportion to the frontage of the property of each owner to the whole frontage of property on the public highway or highways or section thereof so ordered to be improved and such cost shall be apportioned in accordance with what is commonly known as the frontage or front foot rule; provided, that if the application of this rule would, in the opinion of the Board of Commissioners, in particular cases, be unjust or unequal, it shall be the duty of said board to assess and apportion said costs in such proportion as it may deem just and equitable, having in view the special benefits in enhanced value to be received by each owner of such property, the equities of such owners and the adjustment of such apportionment, so as to produce a substantial equality of benefits received by and burdens imposed upon each owner.

The Board of Commissioners shall also have power to provide that the proportion of the said cost which may be assessed against the said owners and their property shall bear interest at a definite rate not to exceed seven per cent per annum when the payment thereof is deferred, and shall have the power to include in any assessment which may be made against such owners and their property, reasonable costs of collecting the same where such costs are incurred, and reasonable attorney's fees where attorney's fees are incurred.

(h) The contract or contracts for such improvement and the bond or bonds (if any required) having been executed and approved by the Board of Commissioners, if the cost, or any part thereof, of such improvement is to be assessed against abutting property, or owners thereof, it shall be the duty of the City Engineer to at once prepare a written statement which shall contain the names of such persons, firms, corporations or estates, as may own property abutting upon the section or sections of the public highway or highways named to be improved, the number of front feet owned by each, and describing the property owned by each, either by lot or block number, or otherwise so describing such property as may be sufficient to identify the same; and such statement shall also contain an estimate of the total cost of such improvement, the proportion and amount of such costs to be assessed against abutting property and the owners thereof, the amount per front foot to be assessed against abutting property and its owners, and the total estimated amount to be assessed against

each owner. Such statement shall be submitted to the Board of Commissioners, and it shall be the duty of the Board of Commissioners, to examine the same and correct any errors which may appear therein, but no error, omission or mistake in said statement shall in any manner invalidate any assessment made or lien or claim of personal liability fixed thereunder. When such statement has been examined and approved by the Board of Commissioners, if said Board of Commissioners shall have determined to assess any part of the costs of said improvements against such property owners and their property, it shall so declare by resolution directing notice thereof to be given to the owners aforesaid by publication for five successive days in a daily newspaper of general circulation in the City of Dallas, and also by mailing to said owners a copy of said notice by registered letter deposited in the postoffice in Dallas, Texas, directed to the address of said owner, if known, but if the address of any owner be not known, then to the agent or attorney of such owner, if known; provided, that the registered letters aforesaid shall be deposited in said postoffice not less than ten days prior to the date set for the hearing hereinafter provided for; and provided further, that the method herein prescribed for service of notice by registered letter shall be merely cumulative of the service of notice by publication above mentioned; and provided, that in all cases where personal service by registered letter shall not be obtained, said service by publication shall, nevertheless, be deemed valid and binding. The certificate of the City Secretary, or such other officer as may be designated by the Board of Commissioners, to the effect that the address of any such owner or owners, or of their agent or attorney, is unknown to him, and that personal service cannot be had upon them shall be deemed conclusive. Any such owner may, in writing, waive the issuance of such notice and service thereof, and accept service. The notice aforesaid shall state the time of the hearing hereinafter provided for, the general character of the improvements determined upon by the Board of Commissioners, the public highway, or part thereof, to be improved, and the proportionate part and amount per front foot of the total cost of the proposed improvement which is contemplated shall be assessed against the property and the owners thereof abutting upon such highway to be improved. On the day stated in the notice aforesaid, or any time thereafter before any special assessment is actually levied, any person, or firm or corporation interested in any property which may be claimed to be subject to assessment for the purpose of paying the cost of any improvement, in whole or part, shall be entitled to a full and fair hearing before said Board of Commissioners as to all matters affecting said property, or the benefits thereto, of such improvements, or any claim of liability, or objection to the making of such improvement, or any invalidity or irregularity in any of the proceedings with reference to making said improvement, or any other objections thereto. Such person, firm or corporation shall file their objections in writing, and thereafter the said Board of Commissioners shall hear and determine the same, and full opportunity shall be given to the persons, firms or corporations filing said objections to produce evidence, subpoena witnesses and to appear in person or by attorney, and a full and fair hearing thereof shall be given by the said Board of Commissioners, which hearing may be adjourned from time to time without further notice. And the Board of Commissioners, shall have full power to inquire into and determine all facts necessary to

the adjudication of such objections and the ascertainment of special benefits to such owners by means of such improvements; and shall render such judgment and order in each case as may be just and proper. Any objection to the regularity of proceedings with reference to the making of such improvements as herein provided, or to the validity of any assessment or adjudication of personal liability against such property or the owners thereof, shall be deemed waived unless presented at the time and in the manner herein specified. The day set for such hearing shall be not less than ten days from the date of the first publication of said notice.

(i) When the hearing above mentioned has been concluded, the Board of Commissioners shall, by ordinance, assess against the several owners of property and against their property abutting upon the public highway or highways, or part thereof, ordered to be improved, such proportionate part of the costs of such improvement as by said Board of Commissioners may have been adjudged against said respective owners and their property. Said ordinance shall fix a lien upon such property and declare the respective owners thereof to be personally liable for the respective amounts to be assessed; and shall state the time and manner of payment of such assessments; and said Board of Commissioners may order that the said assessment shall be payable in installments, and prescribe the amount, time and manner of payment of such installments, which however, except as hereinafter provided, shall not exceed three, and the payment shall not be deferred beyond three years from the completion of such improvement, and its acceptance by the city. The said ordinance shall also prescribe the rate of interest to be charged upon deferred payments; provided, the same shall not exceed seven per cent per annum; and may provide for the maturity of all deferred payments and their collection upon default in the payment of any installment or principal or interest.

Each property owner, his heirs, assigns or successors, however, shall have the privilege of discharging the whole amount assessed against him, or any installment thereof, at any time before maturity, upon payment thereof, with accrued interest. Upon the payment by any property owner of his assessment in full, the city shall cause to be executed by its Mayor and duly acknowledged for record, a release of the lien of such assessment. The fact that more than one parcel of lot or land, the property of one owner or jointly owned by two or more persons, firms or corporations, have been assessed together in one assessment, shall not invalidate the same or the lien thereof, or any claim of personal liability thereunder. The cost of any such improvement assessed against any property or owner thereof, together with all costs and reasonable expense in collecting the same, including reasonable attorney's fees when incurred, shall constitute a personal claim against such property owner, and shall be secured by a lien on such property superior to all other liens, claims or titles, except city, county and State taxes, and such personal liability and lien may be enforced either by suit in any court of competent jurisdiction, or by sale in the same manner, as far as applicable, as sales are authorized to be made by the City of Dallas for the non-payment of taxes; provided, that it shall not be necessary to sell at the same time as for delinquent ad valorem taxes; and the Board of Commissioners may, by resolution or ordinance, make such rules and regulations, not inconsistent with law, as may be deemed necessary to provide for the speedy

collection of such assessments for improvements. Any error or omission in describing property or designating the names of owners, or any other error or omission, may be corrected at any time by the Board of Commissioners or at the suit of any interested party. In any suit brought under the provisions of this section, it shall be proper to join as defendants two or more property owners who are interested in any single improvement or any single contract for such improvement; the person or persons who own property at the date of any ordinance providing for the assessment thereof, shall be severally and personally liable for their respective portions of the said assessment.

(j) At any time within ten days after the hearing herein provided for has been concluded, any person or persons, corporation or corporations, having an interest in any real estate which may be subject to assessment under this act, or otherwise, having any financial interest in such improvement or improvements, or in the manner in which the cost thereof is to be paid, who may desire to contest on any ground the validity of any proceeding that may have been had with reference to the making of such improvements or the validity in whole or in part of any assessment or lien or personal liability fixed by said proceedings, may institute for that purpose in any court of competent jurisdiction. Any person or persons, corporation or corporations who shall fail to institute such suit in said period of ten days, or who shall fail to diligently prosecute such suit in good faith to final judgment, shall be forever barred from making any such contest or contests, and this estoppel shall bind their heirs, successors, administrators and assigns. The City of Dallas and the person or persons to whom the contract has been awarded shall be made defendants in such suit, and any other proper parties may be joined therein.

There shall be attached to plaintiff's petition an affidavit of the truth of the matters therein alleged, except such matters as are alleged on information and belief, and that said suit is brought in good faith and not to injure or delay the city or the contractor or any owner of real estate abutting on the improvement. Unless the provisions of this section are complied with by plaintiff or plaintiffs, such suit shall be dismissed on motion of any defendant, and in that event plaintiff or plaintiffs shall be barred and estopped to the same extent as if suit had not been brought. In any case where a suit is brought as above provided in this section, then the performance of the work may be suspended at the election of either the city or the contractors until such suit shall be finally determined in the court of original jurisdiction or any appellate court to which the same may be taken by appeal or writ of error; provided, that any appeal or writ of error shall be perfected within thirty days from the adjournment of the term of court of original jurisdiction at which final judgment was rendered in such suit; and provided, that no appeal or writ of error to review the judgment of said court may thereafter be taken or sued out by either party; and provided, that any such suit shall be entitled to precedence in the courts of this State, both of original and appellate jurisdiction, and shall be heard and determined as promptly as practicable, and to that end either party thereto may move for an early hearing.

(k) When the Board of Commissioners shall have reason to believe that the owner or owners of any property may successfully claim the same as exempted from special assessment, said Board of Commissioners may order that the improvement shall not be made in front of, or abutting

on, said property, unless the owner or owners shall first make satisfactory provision for, or satisfactorily secure, the payment of the amount of the costs which would be assessed against said property except for said exemption. In any case where the cost, or part thereof, is to be paid by such property owners or assessed against their property, and the contractor to whom the work is let is required to look primarily or wholly to such property or owners thereof for the payment of the proportion of the cost of such improvement assessed against them, and the city is relieved from the payment of such proportion of the cost, and such contractor shall not be obliged to make such improvements in front of any property which is exempt from the enforcement of a lien for such improvement, but may omit the construction thereof in front of such property.

(l) Subject to the provisions hereof, the Board of Commissioners may, when deemed just and proper, order improvements to be made on only one side of a public highway or highways, or section or portion thereof, and may assess the cost, or a portion thereof, against the property and owners of property abutting on said side of said highway or highways, or section or portion thereof.

(m) Whenever any error or mistake shall occur in any proceeding provided for by this act, it shall be the duty of the Board of Commissioners to correct the same, and whenever it shall have been finally determined in any suit that any assessment against any property or its owner, or lien against such property or claim of personal liability fixed or attempted to be fixed under the terms hereof, is, for any reason, invalid, unlawful or unenforceable, then it shall be the duty of the Board of Commissioners to at once proceed to re-assess against such property and the owners thereof such proportion of the costs of making such improvement as may be proper, lawful and just, and to fix a lien against said property and declare the personal liability of the owner thereof, and said Board of Commissioners shall have power, and it shall be its duty, by ordinance or resolution, to adopt such rules and regulations and to make such orders as shall, in compliance with the law, provide for correcting said mistakes and making a valid re-assessment against said property and fixing a valid lien thereon, and a valid personal liability against the owner thereof; and said board shall have power, and it shall be its duty to adopt such rules and regulations for a hearing to the owners of said property before said re-assessment, which may be necessary or proper in order to legally bind such owners and their property by said re-assessment; and shall have power to adopt all other rules and regulations which may be requisite to a valid re-assessment of such property or fixing a personal liability against the owners thereof.

(n) Subject to the terms hereof, the cost of any such improvement or improvements, after deducting the portion of such costs which may be assessed against any railroad or street railroad and the portion of such costs which may have been finally assessed against property abutting upon the highway or highways, or section or portion thereof, ordered to be improved, and against the owners of such property, shall be borne and paid by the city.

(o) In addition to the power hereby conferred upon the Board of Commissioners, by majority vote, to order the construction of any street improvement or improvements, as herein defined, and to assess the cost thereof, in whole or part, against the owners of abutting property; when-

ever the owners of two-thirds of the front feet of property abutting upon any highway or highways, or sections or part thereof, shall, in writing, petition for the improvement thereof; and shall, in said petition, agree to pay two-thirds of the cost of such improvements in front of their respective property, and of improving intersections of streets and alleys, exclusive of such cost as is payable under the terms hereof by railroads or street railroads, and shall generally designate the nature of the proposed improvements; the said board must order the construction of said improvements; provided, only that before a resolution ordering the said improvement shall be passed by the Board of Commissioners, it shall be satisfied, from the said petition or from such other evidence as may be submitted to it, that exclusive of the cost of the said improvement to be paid by railroads and street railroads, at least one-half of the whole cost of said proposed improvement can be secured by valid assessment against property abutting upon the public highway or highways, or section thereof to be improved, and the owners thereof, or will otherwise be satisfactorily secured. If said petition shall specify any particular kind of material or pavement desired by the petitioners, then the work shall be ordered constructed with that material or pavement only, and bids taken accordingly; provided, that in such cases the petition may stipulate the maximum cost per front foot, cubic or square yard, at which the work shall be let, and no contract shall be let at a greater cost than is thus stipulated. Where improvements are ordered to be made upon such petition as provided in this sub-section, the method of procedure with reference thereto and with reference to assessing the cost thereof against abutting property and the owners thereof, shall, subject to the special provisions of this sub-section o, be in accordance with the terms and provisions of this article. Where improvements are to be made upon such petition and as provided by this sub-section, the work shall not actually be begun until two-thirds of the cost of said improvement, exclusive of the part of the cost to be paid by railroads or street railroads, shall have been assessed against the property abutting upon the public highway or highways, or section thereof, to be improved, and against the owners of such property, in the manner hereinbefore provided in this section; provided, however, that no assessment shall be made, claim of personal liability fixed against any such property or the owners thereof, except after the hearing as hereinbefore provided, nor for a greater amount than the special benefit in enhanced value accruing to such property and its owners; and provided, that whenever, after such assessment, the board of commissioners shall be of the opinion that an assessment against any property and the lien thereby fixed can not be enforced on account of the exemption of such property, the board of commissioners may direct that such improvement shall not be made in front of such property, or may require the owner of such property to pay or secure the payment of the pro rata amount of said cost assessed against such property before such improvement shall be made in front of the same. Where improvements are made under the terms of this sub-section o, and the cost, or part thereof, is assessed against the abutting property or the owners thereof, the proportion of the cost assessed against them and their property shall be payable to the City of Dallas in ten annual installments, the first of which shall become due one year from the completion of said work, and its acceptance by the city; said installments

shall bear interest as hereinbefore provided, at seven per cent per annum, and shall otherwise be subject to the provisions of this article as to similar assessments and the payment thereof. When improvements are made under the terms of this sub-section, the city may, out of the permanent street improvement fund hereinafter defined, or out of any other fund which may be available, pay to the contractor the whole cost of such improvement, subject to the terms of the contract or contracts entered into therefor, except such proportion of the cost as may be assessed against railroads or street railroads as herein provided; but two-thirds of said cost paid by the city and assessed against said property and the owners thereof, or secured by them to the city, shall be repaid by such owners to the city in installments and with interest as herein set forth; provided, that any property owner may pay the whole amount assessed against him and his property in cash to the city at any time. Such payments shall become a part of, and sacredly preserved in, said street improvement fund, but any part of said fund may be used and invested and re-invested by the city for making other permanent street improvements, provided, that sums so used or re-invested, shall be secured by assessment against property abutting upon such improvement and the owners thereof.

(p) Where public improvements are ordered to be made otherwise than upon such petition and in the manner set forth in sub-section o, hereof, the cost, or part thereof, may be assessed against abutting property and its owners, as herein provided, and in such cases the board of commissioners may provide that for that part of the cost which may be assessed against such property and its owners, the contractor, to whom the work may be let, shall look only to such property owners and their property, and that the city shall be relieved of liability for such portion of the cost. The board of commissioners may also authorize assignable certificates against abutting property or property owners, or against persons, firms, or corporations using or occupying the public highways to be issued to the contractor or to the city and shall prescribe the form and terms of such certificate. The recital in such certificates that the proceedings with reference to making such improvements have been regularly had in compliance with the terms hereof, and that all prerequisites to the fixing of the lien and claim of personal liability evidenced by such certificate, have been performed, shall be prima facie evidence of the facts so recited, and no other proof thereof shall be required, but in all courts the said proceedings and prerequisites shall, without further proof, be presumed to have been had or performed. Such certificates shall be executed by the Mayor and attested by the City Secretary, or such other officer as may be designated by the board of commissioners, with the corporate seal.

(q) The city shall have power to borrow money on its credit, and the Board of Commissioners, may, by ordinance, authorize the issuance by the city of its negotiable coupon bonds for the purpose of making permanent street improvements as embraced in the terms of this article. Such bonds shall bear interest at the rate of not more than five per cent per annum, payable in semi-annual installments, and the principal thereof shall be payable in not less than forty years from their date. Such bonds shall otherwise be issued and executed in accordance with the terms of this charter with reference to the issuance of other bonds; provided,

that no such bonds shall be issued unless the question of such issue shall first be submitted to a vote of the qualified property taxpayers, and the same shall be approved at such election in accordance with the provisions of this act applicable thereto.

The city may for the purpose of making permanent street improvements and providing for the interest and sinking fund of said bonds, levy an annual tax of twenty-five (.25) cents on each one hundred (100) dollars of taxable property within the city, provided the same shall first be approved by a majority of the qualified property taxpayers voting thereon at an election wherein the question of such levy is submitted to a vote of such taxpayers. Of such tax, so much as may be necessary, shall after such election and without any further submission to a vote of such taxpayers, be annually levied for the purpose of paying interest on, and providing for the sinking fund of, such bonds; and so much as may be necessary of the proceeds of said tax shall be applied to these purposes. The remainder of the proceeds of such tax shall, together with the special assessments collected by the city upon abutting property or its owners for street improvements, become part of a special and sacred fund to be known as the Permanent Street Improvement Fund; which fund shall be used or advanced only for the payment of the cost, or part thereof, of any permanent street improvement constructed under the terms of this section. The Board of Commissioners shall have authority to sell the said bonds and apply the proceeds of the said sale to the purpose of making such permanent street improvements, but the said bonds shall not be sold for less than par. Such bonds shall not be sold by the city until approved by the Attorney General of the State and registered by the Comptroller in accordance with the provisions of this charter.

(r) Whereas, the City of Dallas has entered into contracts for the purpose of making sundry improvements, and may enter into other such contracts before this act shall take effect, under which contracts it is contemplated or may be provided that all or part of the cost of such improvements shall be assessed against property abutting upon the streets or highways upon which said improvements are to be made, and the owners thereof, and further procedure is or may be necessary to carry into effect such contracts and fully effect said assessments, and to provide for the collection thereof; therefore, notwithstanding the repeal hereby of the existing charter of the City of Dallas, and its amendments, the said existing charter and amendments and the ordinances of said city shall remain in full force and effect for the purpose only of carrying into effect such contracts as have been or may be entered into under such existing charter and its amendments and the said ordinances; and the Board of Commissioners, created and authorized by this charter, are hereby authorized and directed, and it is hereby made their duty, to do and perform or cause to be done and performed all things which, by said existing charter and its amendments and the ordinances of said city, the City Council of said city, and officers thereof, acting thereunder, are now authorized or permitted to do in order to carry into effect the terms of said contracts and to assess the cost of improvements against such property and its owners, and to provide for the collection of said assessments, and to provide for the issuance of assignable certificates therefor; and to do and perform any other act

or thing which may be necessary under the said existing charter and the amendments thereto and ordinances of said city to give effect to said contracts and to provide for the enforcement thereof.

(s) The passage by the Board of Commissioners of an ordinance finally assessing against any property, or the owner thereof, the cost, or part thereof, of any improvement, and fixing a lien upon such property, shall operate as notice of such assessment and lien as against all creditors of the owner of such property and all purchasers thereof, and the lien thereby fixed shall, without further record or proceeding, be effective against such creditors or purchasers.

SEC. 2. The term "Sidewalk" as embraced in this article shall also include curbs. The City of Dallas, acting by its Board of Commissioners, is hereby empowered to construct, reconstruct, repair or cause to be constructed, reconstructed or repaired sidewalks upon or along any street or avenue or public place, square or alley, or any part or section thereof, within the said city; and to assess the whole cost of the said sidewalks or part of same against the property which shall abut or front thereon and the owners thereof, except the cost of excavation or grading, which shall be borne by the city.

(a) The power to construct, reconstruct or repair said sidewalks, or cause the same to be constructed, reconstructed or repaired, as provided in this section, and the procedure and methods herein provided, shall be exclusive of, and in addition to, such powers as are conferred and such procedure and methods as are set forth in section 1 of this article and sub-sections thereunder.

(b) The Board of Commissioners shall have power, in their discretion by resolution passed by a majority vote, to order the construction, reconstruction or repair of sidewalks, as herein provided, along or upon any street or avenue, public place, alley, or square, or part or section thereof, within the city, or in front of any property abutting upon the same. No notice of the passage of said resolution shall be necessary. Such resolution shall, in general terms, describe the sidewalk ordered to be constructed, reconstructed or repaired, the materials of which it is to be constructed or repaired, and the street, avenue, alley, square or place, or part or section thereof, along which said sidewalk is to be constructed, reconstructed or repaired.

(c) Upon the passage of the said resolution, it shall be the duty of the City Engineer to forthwith prepare and present to the said Board of Commissioners specifications for the said sidewalks or repairs for same, detailing the manner of construction, reconstruction or repair thereof, and the material or materials of which the same is to be constructed, reconstructed or repaired. If satisfactory, the Board of Commissioners shall approve the said specifications and the same shall remain on file in the office of the City Engineer.

(d) Upon the approval of said specifications, the City Engineer shall at once prepare and file with said Board of Commissioners statement consisting of the name or names of the owner or owners of property abutting upon the street, avenue, alley, public place or square, or part or section thereof, where sidewalks are ordered to be constructed, reconstructed or repaired, and a brief description of the property of each owner, which may be by lot and block number, or any other description which shall be sufficient to identify the same, together with an

estimate of the cost of the said sidewalk or the repair of same in front of the property of each owner, exclusive of the cost of grading and excavation. Upon the filing of said statement, it shall be the duty of the City Secretary, or such other officer, as may be designated by the Board of Commissioners, to publish in a daily newspaper of general circulation within the City of Dallas a notice to the owner or owners of property in front of which said sidewalk or sidewalks are to be constructed, reconstructed or repaired, which notice shall briefly recite the fact that sidewalks have been ordered to be constructed, reconstructed or repaired by the Board of Commissioners, and state the street, avenue, alley, place or square, or section or part thereof, along which the same are ordered to be constructed, reconstructed or repaired, and that plans and specifications for such work have been adopted by the Board of Commissioners and are on file in the office of the City Engineer, and notifying the owners of property abutting upon such proposed sidewalk or sidewalks to construct, reconstruct or repair same in accordance with said resolution and specifications within thirty days from the publication of the said notice.

The Board of Commissioners shall have power to adopt rules and regulations for giving additional notice to the owner or owners of such property in such manner as may be by said Board of Commissioners prescribed, or for personal service of notice upon property owners, but any such notice shall be in addition to, and cumulative of, the advertisement above provided for, and service of notice by such advertisement shall be deemed sufficient without further or additional notice.

(e) The owner or owners of property abutting upon the street, avenue, public alley, place or square, or part or section thereof, along which sidewalks are ordered to be constructed, reconstructed or repaired, shall, within thirty days from the publication of such notice, construct, reconstruct or repair the said sidewalks in accordance with such specifications, at his or their own cost and expense, except the cost of excavating and grading, which shall be borne by the city.

(f) The failure of any owner or owners of property in front of whose property sidewalks have been ordered to be constructed, reconstructed or repaired, under the terms hereof, to construct, reconstruct or repair the same as herein provided, within thirty days from the giving of the said notice, is hereby declared to be a public nuisance, and the city, acting by its Board of Commissioners, is hereby authorized, by ordinance, to declare the failure to so construct, reconstruct or repair such sidewalks an offense against the criminal ordinances of said city, and to declare each day wherein the owner of such property shall neglect to so construct, reconstruct or repair said sidewalk after said thirty days a separate offense, and to impose a penalty for such offense by fine upon conviction in the corporation court not exceeding one hundred (100) dollars.

(g) If the owner or owners of any property in front of which sidewalks are ordered to be constructed, reconstructed or repaired, under the terms hereof, shall not, within thirty days from the publication of said notice, have so constructed, reconstructed or repaired said sidewalk, the Board of Commissioners shall have power, by resolution, and it shall be their duty, to order their construction, reconstruction or repair by the city, and to cause the same to be constructed, reconstructed

or repaired either direct by the city or to let the work of construction, reconstruction, or repairing the same by contract under such rules and regulations as may be adopted by the Board of Commissioners, and with or without competitive bidding, at the discretion of the Board of Commissioners.

(h) Whenever the city shall have constructed, reconstructed or repaired, or caused to be constructed, reconstructed or repaired any sidewalk, as herein provided, the Board of Commissioners shall have power to assess the whole cost thereof, except the cost of excavation and grading which shall be borne by the city, against the property abutting upon the street, avenue, alley, place or square, upon which said sidewalks shall have been constructed, reconstructed or repaired, and the owner or owners thereof; provided that no assessment shall be made against any property, or its owner or owners, or personal liability declared unless the said property shall be specifically benefited by the construction, reconstruction or repair of the said sidewalk, nor for any sum in excess of the special benefit in enhanced value which shall accrue to the said property and its owner from the construction, reconstruction or repair of the said sidewalk. When such sidewalk is ordered to be constructed, reconstructed or repaired in front of the property of one owner, subject to the terms hereof, the cost of such sidewalk shall be assessed against such property, and the owner thereof. Where sidewalks are ordered to be constructed, reconstructed or repaired in front of the property of more than one owner, or in front of more than one lot along any street, avenue, public alley, square or place, or part or section thereof, the cost of construction, reconstruction or repair of the said sidewalk in front of the property of each owner shall be assessed against such owner and his property separately and a separate liability against such owner declared.

(i) No assessment for the cost of such sidewalk shall be made against any property or its owner, until the Board of Commissioners shall have first so declared, by resolution, directing notice thereof to be given to the owner or owners of such property. Said notice shall be given by advertising the same in a daily newspaper of general circulation in the City of Dallas for three consecutive days, and also by mailing to said owner or owners a copy of said notice by registered letter deposited in the post office of Dallas directed to the address of said owner, if known, but if the address of any owner be not known, then to the agent or attorney of such owner, if known; provided, that the letters aforesaid shall be deposited in the post office not less than five days prior to the date set for the hearing hereinafter mentioned; and provided, further, that the method herein prescribed for service of notice by registered letter shall be merely cumulative of the service of notice by publication above mentioned; and provided, that in all cases where personal service by letter shall not be obtained, the service by publication shall be deemed valid and binding. The notice aforesaid shall state the time of the hearing hereinafter mentioned, the general character of the sidewalk ordered to be constructed, reconstructed or repaired, the street, avenue, public alley, square or place, or part or section thereof, along which the same has been constructed, reconstructed or repaired, and that the cost of the said work is proposed to be assessed against the owner or owners of property abutting thereon, and the date set for the hearing.

Said hearing shall be not less than one week from the date of the first publication of the said notice. On the date stated in the notice aforesaid, or at any time thereafter, before any assessment is actually levied, any person or corporation interested in any property which may be claimed to be subject to assessment for the purpose of paying the cost said sidewalks, or any other objection thereto. Such objection shall be entitled to a full and fair hearing before the Board of Commissioners as to all matters affecting said property or the benefits thereto, of such construction, reconstruction or repair of such sidewalk, or as to any personal liability therefor, or as to any irregularity or invalidity in the proceedings with reference to constructing, reconstructing or repairing said sidewalks, or any other objection thereto. Such objection shall be filed in writing specifying the nature thereof, and full opportunity shall be given to the person or corporation filing the same to produce evidence, subpoena witnesses, and to appear in person or by attorney, and a full and fair hearing thereof shall be given by the said board; which hearing may be adjourned from time to time without further notice.

The Board of Commissioners shall have power to inquire into and determine all facts necessary to the adjudication of such objections and the ascertainment of special benefits to the owners by means of the construction, reconstruction or repair of such sidewalk, and shall render such judgment or order in each case as may be just and proper.

Any objection to the regularity of proceedings with reference to the construction, reconstruction or repair of such sidewalk, or to the validity of any assessment, or the determination of personal liability against such property or its owners, shall be deemed waived unless presented at the time and in the manner herein specified.

(j) When the hearing above mentioned has been concluded, the Board of Commissioners shall, by ordinance, assess against the owner or owners of property, or against their property abutting upon the sidewalks so constructed, reconstructed or repaired, the cost of constructing, reconstructing or repairing such sidewalk in front of the property of each owner and adjudge and declare a personal liability against such owner or owners thereof, if it shall have been determined by the board upon such hearing that said owner or owners and their property have been benefited in the enhanced value of said property in an amount at least equal to such cost; but if, in any case, it shall have been determined on such hearing that the property of any owner is not benefited in enhanced value by such construction, reconstruction or repair of such sidewalk, then no assessment shall be made against the property of such owner; or if, after such hearing, it shall be determined by said board that said property has been benefited in enhanced value in any amount less than the cost of the construction, reconstruction or repair thereof, then said Board of Commissioners shall assess against said owner and his property only such amount as shall equal the benefit received by such owner and his property. The ordinance making the said assessment shall fix a lien upon the property of each owner or owners and declare the owner or owners thereof to be personally liable for the respective amounts which may be against them assessed; and shall state the time at which the said assessments shall be paid, which shall not be longer than thirty days from the date of making the same. Such assessment

shall bear interest from the date of making the same until paid at the rate of eight per cent per annum.

(k) The amount assessed under the terms hereof against any property, or owner thereof, shall be secured by a lien upon said property, and shall constitute a personal liability against the owner or owners thereof in favor of the City of Dallas, and the said liability and lien may be enforced either by suit in any court of competent jurisdiction, or by sale of such property of said owner or owners, in the manner provided by law and this charter for the sale of property for other taxes. Said assessment shall include all costs and expenses of collecting the same where such costs are incurred, including reasonable attorney's fees where such attorney's fees are incurred. In all cases where sale of any property shall be made for non-payment of such assessment or assessments in the manner provided for the sale of property for non-payment of other taxes, such sale shall be made by the Tax Collector of the City of Dallas, or such other officer as may be designated by the Board of Commissioners, and the deed executed by said Tax Collector, or such other officer as may be designated by the Board of Commissioners, and the recital in the deed of such Tax Collector, or such other officer as may be designated by the Board of Commissioners, that all legal pre-requisites to said sale have been complied with, shall be prima facie evidence of the truth of the facts so recited, which facts shall, in all courts of law and equity, be presumed to be true without further evidence thereof. The Board of Commissioners may, at its discretion, provide that assignable certificates be issued for the amount of such assessment, and shall have power to prescribe the form and terms of said certificates. Said certificates may recite that all legal pre-requisites to said assessment and the fixing of a lien upon said property have been complied with, which recital shall be prima facie evidence of the truth of the facts so recited, and without further proof said facts shall be presumed.

(l) Any person, firm or corporation having any interest in said property upon which said assessments shall have been made, shall have the right to contest the same or the validity thereof or the regularity of any proceeding with reference to the said assessment or the special benefit received by the owner of any such property by filing suit in any court having jurisdiction thereof, in which suit the City of Dallas shall be defendant and any other proper party may be made defendant; provided, that such suit shall be brought within ten days from the date of the passage of the ordinance making such assessment upon such property, and if not so brought then the owner or other person or corporation having an interest in said property shall thereafter be barred and estopped to question the validity thereof; and this bar and estoppel shall apply to the heirs, assigns, successors and personal representatives of such person or corporation.

ARTICLE XI.

PUBLIC UTILITIES.

1. No street, alley, or public highway in the City of Dallas shall ever be used by any person, firm or corporation for the construction or operation of a street railway, telegraph line, telephone system, electric light and power system, gas works, water works, sewer system, or any

other business of a public or quasi public nature, without obtaining authority therefor under a franchise granted by the Board of Commissioners, in accordance with the provisions of this act. It shall be the duty of the Board of Commissioners and the City Attorney to bring suit to enforce this provision against any person, firm or corporation violating the terms thereof, for the purpose of ejecting the offender from the occupancy of such property, and to recover damages for the illegal use thereof.

2. The City of Dallas shall have the exclusive right to erect, own, maintain and operate water works for the use of said city and its inhabitants, and to regulate the same, but shall not have the power or right to sell said water-works system. It shall have power to prescribe rates for water furnished to said inhabitants, and to make such rules and regulations as the Board of Commissioners may deem expedient; to acquire by purchase or donation suitable grounds on which to erect such works, and necessary right of way and to do anything whatsoever necessary to operate and maintain said works, and to compel the owners of all property and the agents of such owners to pay all charges for water furnished upon such property.

All receipts and revenues from the water works shall constitute a separate and sacred fund, which shall never be diverted or drawn upon for any other purposes than the extension, improvement, operation, maintenance, repair and betterment of the water works and water supply; and sewer system of the city and for the purpose of constructing and extending lateral sewers in the sanitary sewer system of the city; but the Board of Commissioners may appropriate or pledge such receipts and revenues for the purpose of extending, improving, operating, maintaining and bettering the water-works plant and mains and supply, and for constructing and extending lateral sewers, and also for the purpose of discharging or retiring the indebtedness of the city that may be incurred or accrued for water works purposes.

3. At the first general election to be held under this act, for the election of a Board of Commissioners, there shall be submitted to a vote of the qualified electors who are taxpayers in said city the questions whether or not the Board of Commissioners shall be empowered to issue bonds of said city in the amount of five hundred thousand dollars (\$500,000), the proceeds of which shall be used for the betterment and extension of the water-works system belonging to the city and bonds of the city in the amount of one hundred thousand dollars (\$100,000), the proceeds of which shall be used for street improvements, in accordance with the provisions of Article 10 hereof, and bonds of the city in the amount of \$50,000, the proceeds of which shall be used for the erection of public school buildings; also whether a special tax of twenty-five cents on the one hundred dollars (\$100) of taxable property shall be levied for street improvement purposes. A separate ballot shall be used at said election which shall contain the following words:

“Special Bond and Tax Election.”

“For the issue of bonds in the sum of five hundred thousand dollars (\$500,000) for the improvement of the water works.”

“Against the issue of bonds in the sum of five hundred thousand dollars (\$500,000) for the improvement of the water works.”

“For the issue of bonds in the sum of one hundred thousand dollars (\$100,000) for street improvements.”

"Against the issue of bonds in the sum of one hundred thousand dollars (\$100,000) for street improvements."

"For a special tax of twenty-five cents on the one hundred dollars (\$100) for street improvements."

"Against special tax of twenty-five cents on the one hundred dollars (\$100) for street improvements."

"For the issue of bonds in the sum of fifty thousand (\$50,000) dollars for public school buildings."

"Against the issue of bonds in the sum of fifty thousand (\$50,000) dollars for public school buildings."

In the event either or all of said proposed bond issues shall receive the affirmative vote of a majority of those who shall vote thereon, the Board of Commissioners shall, as soon as practicable, cause to be issued and shall sell, in accordance with said vote or votes, coupon bonds of said city, to bear interest not to exceed six per cent per annum, payable semi-annually at such places as may be designated by city ordinance, and shall appropriate and use the proceeds of such bond issue or issues in accordance with the result of said special election; provided, that such bonds shall be issued in compliance with provisions of Article 2, Section 2, of this act, and the several subdivisions of said section.

If said proposed tax levy of twenty-five cents on the one hundred dollars (\$100) of taxable property shall receive a majority of the votes of those voting thereon, the Board of Commissioners shall levy a special tax of twenty-five cents on the one hundred dollars (\$100) of all taxable property, the proceeds of which shall be used for making street improvements, and to provide a sinking fund for street improvement bonds in accordance with the provisions of Article X hereof.

4. The Board of Commissioners shall have power, by ordinance, to provide for and construct a general sewer and drainage system, to be divided into public and private sewers and drains, and to be constructed, maintained and regulated in such manner and out of such material as the Board of Commissioners may prescribe. Sewers may be established as the Board of Commissioners may direct, and there may be extension of branches of sewers already constructed or entirely new throughout, as may be deemed expedient. The Board of Commissioners may, if necessary, levy a tax on all taxable property in the entire city, to pay for the construction and repairs of such public sewers which shall be called a "special sewer tax," and shall be used solely for such purpose. No public sewer shall be run diagonally through private property when it is practicable, without injury to said sewer, to construct it parallel with one of the exterior lines of such property. No public sewer shall be constructed through private property when it is practicable to construct it along or through a street or public highway.

5. The Board of Commissioners shall have the power to appropriate private property for public purposes, whenever the Board of Commissioners of said city shall deem it necessary to take any private property, either within or without the city limits, for any of the following purposes, to-wit:

In order to open, extend, change or widen any public street, avenue or alley, or for the construction of water mains or sewers, either within or without the city limits, or for the improvement and enlargement of its water works, including riparian rights, water sheds, reservoirs, etc.,

or for public schools, industrial schools, parks, squares, and pleasure grounds, public wharves and landing places for steamers and other crafts, or for the straightening or improving of the channel of any stream, branch or drain, such property may be taken for such purposes by making just compensation to the owner thereof. If the amount of such compensation shall not be agreed upon, it shall be the duty of the Board of Commissioners to cause to be stated in writing the real estate or property sought to be taken, the name of the owner thereof, and his residence if known, and the purpose for which said property is sought to be taken and file such statement with the county judge of Dallas County. Upon the filing of such statement, it shall be the duty of such judge, in term time or vacation, to appoint three disinterested freeholders and qualified voters of the County of Dallas as special commissioners to assess the damages to accrue to the owners by reason of such condemnation. The special commissioners so appointed, shall, in their proceedings, be governed and controlled by the State laws in force in reference to the condemnation of right of way for railroad companies, and the assessment of damages therefor, the City of Dallas occupying the position of the railroad company. In estimating the damages to such property the jury shall not only estimate the value of the land so taken, but they shall also estimate the damage done to the remainder of any land from which it is taken by reason of such taking and use; provided, however, that in case of the condemnation of land for the opening, extending or widening of any street, or for straightening or improving the channel of any stream, branch or drain within the corporate limits of said city, the Board of Commissioners may, by ordinance, provide that the cost of such property shall be paid for by the property owners owning property in the immediate vicinity thereof and benefited thereby. In such cases the City Engineer shall, under the direction of the special commissioners appointed, make a plat of the property which in the judgment of said special commissioners, will be, specifically benefited and enhanced in value by the making of such improvement, whereupon such special commissioners shall issue notice to the owners of such property to appear before them at a time and place to be designated in such notices to show cause, if any they have, why such property should not be assessed to pay the cost of the property so condemned; such notices may be served by any police officer in the City of Dallas, or any other officer of the State of Texas, County of Dallas, authorized by the laws of said State to serve process of the courts of said State; and in all cases where such owner or owners, or any of them, are absent from said city and county, upon the agent of such absent owner, if such owner shall have an agent in said city or county, and in case such absent owner shall not have such agent, or in case the owner of such property is unknown, then such notice shall be published for two days consecutively in some newspaper published in the City of Dallas; such notice shall be given five full days before the final determination by the special commissioners of the amount of assessment against the owner of such property for such improvement; said special commissioners shall determine the value of the property desired to be taken, belonging to the different owners thereof, if there be more than one such owner, and if there be only one such owner, the value of the same, and shall also find how much of the cost thereof shall be assessed against the owner of each lot or subdivision of the

land in the immediate vicinity thereof specially benefited and enhanced in value by the making of such improvement, and shall report all said matters to the Board of Commissioners of the City of Dallas, showing a description of the property taken and condemned and the name of the owner thereof, if known, and if the owner of any such property is unknown, shall state said fact, or if there be more than one owner of such property, then the description of the property of each said owner, if known, and if unknown, shall state such fact and the value of the property of each such owner so condemned, and also the description and name of the owner of each subdivision of property if known, and if unknown, shall so state, describing such property so as to identify it against which special assessment should, in the judgment of said board, be made to pay for such property condemned, such apportionment shall be made according to the benefits that will, in the judgment of said special commissioners, be received by or accrue to such lot or subdivision of property by reason of the making of such improvements. Such report shall be signed by a majority of such special commissioners, and shall be filed with the City Secretary for the consideration of the Board of Commissioners. The Board of Commissioners shall, as soon as practicable after the filing of such report, consider the same, and if the same is approved by a majority vote of the members present at the meeting at which it considers the same, the same shall be final and binding upon the city and all parties at interest therein. If the Board of Commissioners shall approve said report, it shall levy a special tax against the property shown by said report to be benefited and enhanced in value by such improvement, according to the recommendation made in such report; such taxes shall be a lien on the property against which the same shall be assessed, from the date of such levy, and shall become due and delinquent at the times provided in the ordinance levying the same. If the same shall not be paid as provided in such ordinance, the City Assessor and Collector of taxes shall proceed to collect same, as provided in the ordinance, levying same by the advertisement and sale as provided in the city charter in cases of the sale of such property for delinquent ad valorem taxes; provided, that it shall not be necessary to make such sales at the same time as provided for in the sale of property for delinquent ad valorem taxes. The special commissioners appointed under the provisions of this section shall have the same power to issue writs and subpoenas and compel the attendance of witnesses, etc., as commissioners appointed for the condemnation of land, etc., for the right of way of railroads under the general laws of the State of Texas, have; shall receive the same compensation for their services and shall be governed in all respects not herein otherwise provided by general laws in all matters relating to their procedure. The compensation for the land and property taken or damaged under the provisions of this section shall be paid to the owner of such property so taken or damaged, or secured by a deposit set apart in money in the hands of the City Treasurer, subject to the order of such owner, before such property is taken or damaged; provided, the city may make such payment out of the general fund, if the Board of Commissioners shall deem it advisable, and when the amounts assessed against the property specially benefited as herein provided are collected, may repay to the said general fund the amount

so advanced, and such payment shall not be a waiver of the city's rights to make such collection.

6. The Board of Commissioners shall have power to cause telegraph, telephone, and electric light companies to change the location of their poles; also to cause all erected poles not in use to be taken down and removed. If such companies shall fail to do such things after being notified, the city may have the same done at the expense of such companies. The Board of Commissioners shall also have the power to require telegraph, telephone companies and electric light companies to run their wires under the ground, if, in the wisdom of the board, public interest should so demand.

7. Any person, firm or corporation holding any franchise heretofore or hereafter granted by the city, authorizing the use or occupation for any purpose of any street, avenue or alley in the city, or any portion thereof, and requiring or binding the person, firm or corporation holding such franchise to keep any portion of such street, avenue or alley so used or occupied, or the pavement thereof in repair, or to maintain the same in condition for public travel; or any person, firm or corporation who, under any contract heretofore or hereafter made with the city for the construction, reconstruction or repair of the pavement or other improvement of any avenue, street or alley, or any portion thereof, shall be or is bound to keep the same in repair or in good condition for public travel, or to do or to perform any duty relating to the maintenance or repair of such pavement or other improvement, for any term of years mentioned in such contract, who shall be served with a written notice signed by any owner or owners of property abutting such street, avenue or alley, or such portion thereof, such notice to be so served by delivering in person, or by mailing same by registered mail to such person, firm or corporation, or any officer or agent thereof, at the postoffice address of his residence, and who shall fail or refuse to repair or place in condition for travel according to the terms or requirements of such franchise or contract the portion of such avenue, street or alley mentioned in such notice, which such person, firm or corporation is bound to repair or maintain, within ninety days after date of the service of such notice, shall forfeit to the city the sum of \$50 for each day after the expiration of said ninety days until said avenue, street or alley or portion thereof mentioned in said notice, and which such person, firm or corporation is bound to repair or maintain, is repaired and put in good condition for public travel, as required by the terms of such franchise or contract, or until the requirements and terms of such contract are complied with, such sum or sums to be recoverable at the suit of the city or at the suit of any owner of property abutting said avenue, street or alley, or portion thereof, to the use of the city, in any court of competent jurisdiction. The penalty herein provided shall be in addition to and cumulative of any other penalty, condition or requirement contained in such franchise or contract. In any suit brought under this section any judgment therein recovered may be made a lien upon any sum held by or deposited with the city, or in trust, to guarantee or secure the performance of the conditions of any such franchise or contract.

8. Whenever any franchise to any person, firm or corporation has heretofore been made, or shall hereafter be made or granted by the Board of Commissioners for the use of any street of the city for the pur-

pose or for the exercise of any public privilege or advantage, and the said grant has been or shall hereafter be made upon any conditions named in said grant of things to be performed by the said grantee, and such grant shall contain no condition of forfeiture, yet the breach of any condition so named in any such grant, or any failure on the part of said grantee to promptly pay any tax whatever assessed by the city, shall be or cause a forfeiture of the said franchise or privilege so granted, as if expressly stipulated for therein, and wherever any such grant has been or shall hereafter be made in consideration of the payment of any bonus, the said payment shall be secured by a prior lien on all property of said grantee, within the city, whether expressly stipulated for or not, and any failure to promptly pay such bonus according to the terms of the grant, or any failure to pay any tax of any kind, shall be a cause of forfeiture of the franchise or privileges granted, whether such forfeiture be expressly provided for or not.

ARTICLE XII.

SALOON LIMITS AND RESTRICTIONS.

1. It shall be unlawful, except as hereinafter provided, to locate, establish, maintain or conduct a saloon, as hereinafter defined, within the corporate limits of the City of Dallas as now or as they may hereafter be established, outside of the limits bounded as follows:

Said prohibited limits not to include, however, the frontage on either side of the streets hereafter named as constituting the boundary of said prescribed limits:

Beginning at the Trinity River where Payne Street if extended would intersect; thence on Payne Street to Alamo Street; thence on Alamo Street to Burk Street; thence on Burk Street to Caroline Street; thence on Caroline Street to McKinney Avenue; thence on McKinney Avenue to Orange; thence on Orange if extended to Patterson Avenue; thence on Patterson Avenue to Bullington Street; thence on Bullington Street to Bryan Street; thence on Bryan Street to Hall Street; thence on Hall Street to Live Oak Street; thence on Live Oak Street to Cantegral Street; thence on Cantegral Street to the Texas and Pacific Railroad; thence on the Texas and Pacific Railroad to Smith Street; thence on Smith Street to First Avenue; thence on First Avenue to Commerce Street; thence on Commerce Street to South Pearl Street; thence on South Pearl Street to Cabell Street; thence on Cabell Street to South Harwood Street; thence on South Harwood Street to Marilla Street; thence on Marilla Street to Veal Street; thence on Veal Street to Wood Street; thence on Wood Street to Santa Fe Railroad tracks; thence with the Santa Fe Railroad tracks to Young Street; thence on Young Street to Poydras Street; thence on Poydras Street to a point where Poydras Street would intersect line drawn through center of block 156; thence west parallel with Commerce Street through the center of blocks 56, 49, 42, 33, 23, 13, 5 and 414 to the Trinity River; thence with the Trinity River to the place of beginning: provided, the public park known as the grounds of the Texas State Fair heretofore purchased by the city and now maintained as a public park is not and shall not be construed to be included within such prohibited limits, and the sale of intoxicating liquors upon the grounds and territory so purchased and maintained by the city shall be lawful when license shall be duly obtained therefor,

together with the consent of the city authorities in control of such park. Provided further, that said Board of Commissioners shall never have power to authorize the establishment and maintenance of saloons in that territory, heretofore annexed to the City of Dallas and known as the territory of Oak Cliff.

Provided further, that should the City of Dallas set aside any defined territory upon which to colonize and segregate prostitutes, as is provided for in another section of this charter, in said territory so designated there shall never be established any saloon as the same is hereinbefore defined, nor shall spirituous, vinous or malt or intoxicating liquors of any kind whatever be sold within said designated territory.

All saloons shall close their doors and places of business and transact no business at such places from 12 o'clock midnight until 5 o'clock a. m. of each week day and shall remain closed and transact no business at such places from 12 o'clock midnight Saturday until 5 o'clock a. m. of the following Monday of each week. It shall be the duty of the proprietor of each saloon, or his agent, to keep posted in a conspicuous place therein, by the side of the Federal license under which said saloon is conducted, the licenses obtained by him from the State, County and city, and to write or print, in large letters, underneath said licenses the following words:

City license expires day of..... (inserting the time of the expiration of the last of such licenses so obtained and held by him). If any owner or keeper of any saloon shall be convicted in any court for a violation of any provisions of this charter or of any offense against any law, of this State, regulating or affecting the sale of intoxicating liquors, such conviction shall operate to forfeit the license under which such saloon is being operated, and the unearned portion thereof shall not be refunded, and all right to conduct such business thereunder shall be revoked by the Board of Commissioners, and thereafter no license for such purpose shall be issued by the city to such offending party for a period of two years. It shall be the duty of the Board of Commissioners to hear any complaints that may be preferred against the proprietor of any saloon, or his agent, touching the method of operating such saloon or any matters relating thereto, and if, upon such hearing, such complaint shall appear to them to be well founded, the Board of Commissioners, shall have power to make such orders and decrees with respect to such matters as it may deem necessary and it shall have power to enforce such orders under adequate penalties, and to revoke the saloon license of any person who may fail or refuse to comply therewith. The Board of Commissioners shall have power to enact all such ordinances and to enforce such penalties as may be necessary to give effect to the foregoing provision.

2. No person shall establish, locate or maintain any saloon, being a place where intoxicating liquors shall be sold within the above prescribed limits without first having obtained the license or tax receipt from the Board of Commissioners as is provided by the general law to be issued by cities to persons engaged in such business, and paying therefor the amount of license fees or tax, as is provided by the general law to be charged by cities; provided, however, that no such license shall ever be issued to any person applying for same, unless such person shall make application in writing for such license, and set forth in such applica-

tion the exact place where the proposed saloon is to be located, and show by a map or other evidence that there are not more residences than there are business houses within a radius of three hundred (300) feet from the center of such proposed saloon. If upon examination of such application the Board of Commissioners are satisfied that there exist more business houses than residences within the radius as hereinabove prescribed, and that the applicant for such license is a person of good moral character, such license shall be issued to the applicant; subject, however, to the hereinafter stated conditions, the failure to observe any one of which shall authorize the Board of Commissioners to forfeit and revoke any license granted hereunder, viz.:

First. That said person so obtaining said license shall, at all times, conduct said saloon in strict accordance with the conditions of the liquor dealers' bond, which is required by the State law to be executed by such person.

Second. That such person shall fully observe all of the laws of the State and city relating to the closing of said saloon on Sunday or other days prescribed by law.

Third. That said saloon shall be closed at 12 o'clock midnight every night, and shall remain closed till 5 a. m. every day during the week, save and except that said saloon shall close on Saturday night at 12 o'clock midnight, and remain closed till 5 o'clock Monday morning.

Fourth. That said person or his agent or employes shall not be found guilty in any court of competent jurisdiction of the violation of the Sunday law in connection with the saloon to which the license is herein issued or of selling intoxicating liquors to minors, or of permitting lewd or indecent women to resort to such saloon.

3. The license granted hereunder shall be granted for the period of one year, and shall not be transferred or assigned without the written permission of the Board of Commissioners, and in any such case, the person to whom such license is assigned or transferred shall present to the Board of Commissioners the same petition as is herein required of the person to whom said license was originally granted. Should it come to the knowledge of the said Board of Commissioners that the person to whom a license has been issued is violating any of the conditions hereinabove set forth, the Board of Commissioners shall issue a notice to such person to appear before said board on a date fixed in such notice, to then and there show cause why said license, so issued, should not be forfeited and revoked. Such person shall be required to respond to such notice, and may answer same in person or by his attorney, but if such person should fail or refuse to answer such notice by the time fixed therein the Board of Commissioners may, if they deem it proper, revoke such license and such person shall thereafter be subject to the penalties hereinafter provided for, if he shall continue to maintain or conduct such saloon. Whenever any person shall appear in obedience to such notice, the Board of Commissioners shall investigate the charge against the said person, and if the Commissioners should conclude, after a full hearing thereof, that the person to whom such license was issued has violated any of the conditions hereinabove set forth they shall have the power to revoke and forfeit such license, and it shall thereafter be unlawful for such person to continue conducting such saloon at said place. For the purpose of further investigating and examining into

the question of whether the said licensee has violated any of the conditions as herein set forth, the said Board of Commissioners shall have full power and authority to compel the attendance of witnesses, and to punish said witnesses for contempt in the same manner as is prescribed by law for the County Judge to punish for contempt and shall also have power to administer oaths to witnesses.

All process shall be served by the Chief of Police or any police officer of the city, and be signed by the Mayor, and the Secretary of the Board.

4. Any person conducting, locating or maintaining any saloon without first having obtained the license provided for, shall be subject to a fine of \$200 for each and every day that such saloon is conducted, maintained or established without a license.

5. After any such license issued to any person shall be revoked or forfeited by said Board of Commissioners in the manner as herein prescribed, it shall be the duty of the said person to immediately discontinue the conduct of said saloon, and upon his failure to do so he shall be subject to a fine in any sum not exceeding \$200 for each and every day that the said saloon is conducted and maintained after such license has been revoked and forfeited.

ARTICLE XIII.

ORDINANCES.

1. Every ordinance passed by the Board of Commissioners shall be enrolled by the Secretary or such other officer as may be selected by the Board within the next succeeding five days, Sundays excepted, or as soon thereafter as practicable. It shall then be carefully compared with the ordinance and all amendments, if any, by the City Attorney and at least one member of the Board of Commissioners who may be charged with that duty by the Board of Commissioners. If errors exist they shall be corrected. If no errors exist, or if found, then, after their correction, the Commissioners and City Attorney making the comparison shall endorse on the margin, the words "correctly enrolled," and give the date thereof and subscribe his name thereto. Every ordinance imposing any penalty, fine, imprisonment, or forfeiture for a violation of its provisions, shall, after the passage thereof, be published in every issue of the official newspaper for three days successively (excluding Sundays), and proof of such publication by the printer or publisher of such newspaper, made before any officer authorized to administer oaths and filed with the Secretary of the Board of Commissioners, or any other competent proof of such publication shall, in all courts, be conclusive evidence of the legal publication and promulgation of such ordinances; provided that amendments and corrections made in digesting and revision for publication in book form need not be so published. All ordinances, except as above provided, shall be published at least once in some newspaper in the City of Dallas, and shall take effect as provided in Section 1 of Article VIII of this Charter. All ordinances of the city, when printed and published and bearing on the title page thereof, "Ordained and published by the Board of Commissioners of the City of Dallas," or words of like import, shall be prima facie evidence of their authenticity, and shall be admitted and received in all courts and places without further proof.

2. The style of all ordinances shall be "Be it Ordained by the Board

of Commissioners of the City of Dallas," but such caption may be omitted when said ordinances are published in book form or are revised and digested under the order of the Board.

3. The Board of Commissioners shall have power to cause the ordinances of the city to be printed in code form, and shall have the same rearranged and digested as often as to the Board may seem advisable.

4. In all judicial proceedings it shall be sufficient to plead any ordinance by caption, or by the number of the sections thereof wanted, and it shall not be necessary to plead the entire ordinance or section. All printed ordinances or codes of ordinances published by authority of the Board of Commissioners, shall be admitted in evidence and shall have the same force and effect as would the original ordinances.

5. All ordinances of a general nature shall be published at least once in some newspaper in the City of Dallas.

6. All ordinances, resolutions, rules and regulations now in force in the City of Dallas, and not in conflict herewith, shall remain in force under this act until altered, amended or repealed by the Board of Commissioners, after this act shall take effect.

7. All ordinances of the City of Dallas which may be invalid or defective, but which if passed under the provisions of this act would be valid, are hereby validated as if passed under the provisions of this act.

ARTICLE XIV.

MISCELLANEOUS PROVISIONS.

1. The City of Dallas, acting through the Board of Commissioners, shall have power to do by day labor under municipal direction, any work which may become advisable, or necessary to be done.

2. In all work done by or for the city, either by day work or by contract, eight hours shall constitute a day's work; and no employe of the city on work for the city, or employe of any contractor or sub-contractor of such work, shall be required to work longer than eight hours in any one calendar day; provided that this section shall not apply to the fire or police department or to employes engaged in clerical work for the city; and provided, further, that this section shall not be construed to apply to any contract entered into by the city prior to the passage of this act; provided, that in case of emergency, an employe may be required to work longer than eight hours, but when so required to work longer than eight hours, such employe shall be paid for such overtime at the rate of one and one-half times the rate such employe is paid for his labor during the eight hours.

3. All persons or corporations owning or holding personal property or real estate in the City of Dallas on the first day of January of each year shall be liable for all municipal taxes levied thereon for the fiscal year beginning the next following May.

4. The personal property of all persons owing any taxes to the City of Dallas is hereby made liable for all of said taxes, whether the same be due upon personal or real property, or upon both.

5. The Board of Commissioners shall have power to provide for taking an enumeration of the inhabitants of the city. And it shall be the duty of the Governor of the State whenever the Board of Commissioners shall by resolution so request to appoint a commissioner who shall supervise such enumeration, whose compensation, together with all the

expenses of such enumeration, shall be paid in such manner as the Board of Commissioners may provide.

6. The Board of Commissioners shall not have the power or authority to sell, lease, or in any manner dispose of the city hospital, except by the consent of the majority of the qualified voters of the City of Dallas voting at an election held for such purpose.

7. No property of any kind—church, school or otherwise—in the City of Dallas shall be exempt from any of the special taxes and assessments authorized by this charter for local improvements.

8. The fiscal year of the City of Dallas shall begin and end at 12:01 o'clock, noon, on the first day of May in each year.

9. All bonds, contracts, or other instruments requiring the assent of the city, shall be signed by the Mayor, or the acting Mayor, and all legal process against the city shall be served upon the Mayor, or acting Mayor.

10. In addition to the other modes of collection anywhere in this act provided, all taxes due the city, whether general or special, assessments for improvements or otherwise, may be collected by an action of debt, and liens on real estate may be foreclosed in any court having jurisdiction. The assessment rolls relating to such taxes shall be taken as prima facie evidence of the statements made therein, and the city shall have authority to become the purchaser at all sales of property for taxes due it, under judgment or otherwise. It shall be the duty of the Mayor to attend such sales to make such purchases if they be necessary, or to empower some other person to do so on behalf of the city.

11. Before the City of Dallas shall be liable for damages of any kind the person injured, or some one in his behalf, shall give the Mayor or City Secretary notice in writing of such injury within thirty days after the same has been received, stating specifically in such notice when, where and how the injury occurred and the extent thereof. The City of Dallas shall never be liable on account of any damage or injury to person or property arising from or occasioned by any defect in any public street, highway or grounds or any public work of the city, unless the specific defect causing the damage or injury shall have been actually known to the Mayor or City Engineer by personal inspection for a period of at least twenty-four hours prior to the occurrence of the injury or damage, unless the attention of the Mayor or City Engineer shall have been called thereto by notice thereof in writing at least twenty-four hours prior to the occurrence of the injury or damage and proper diligence has not been used to rectify the defect after actually known or called to the attention of the Mayor or City Engineer as aforesaid.

12. It shall not be necessary in any action, suit, or proceeding in which the City of Dallas is a party, for any bond, undertaking or security to be executed in behalf of said city, but all such action, suits, appeals, or proceedings, shall be conducted in the same manner as if such bond, undertaking or security had been given, and said city shall be liable as if such obligation had been duly given and executed.

13. The property, real and personal, belonging to said city shall not be liable to be sold or appropriated under any writ of execution or cost bill, nor shall the funds belonging to said city, in the hands of any person be liable to garnishment on account of any debt it may owe or funds it may have on hand due any person, nor shall the city or any

of its officers or agents be required to answer to any writ of garnishment on any account whatsoever, nor shall said city be liable to the assignee of any wages of any officer, agent or employe of said city, whether earned or unearned, upon any claim or account whatsoever, and as to the city any such assignment shall be absolutely void.

14. Whenever, in the opinion of the Board of Commissioners, any buildings, fence, shed, awning or structure of any kind or part thereof, is liable to fall down and injure persons or property, the Board of Commissioners may order the owner or agent of same, or occupant of the premises, to take down and remove the same within such time as it may direct, and may punish by fine and imprisonment, or either, all persons failing so to do. The Board of Commissioners shall have the additional power to remove the same at the expense of the city on account of the owner of the property, and assess the expenses thereof, including condemnation proceedings, as a special tax against the land, and the same may be collected as other special taxes provided for in this charter, or by suit in any court of competent jurisdiction.

15. The Board of Commissioners shall have full power to condemn all dangerous buildings or obstructions of any kind, and may provide regulations therefor by ordinance.

16. All writs, subpoenas, or other process, issuing out of the city court, shall run in the name of the City of Dallas, and may be executed and served by the Chief of Police or his deputies, or policemen of said city anywhere in Dallas County, Texas.

17. In all cases where, by any of the provisions of this act, or by ordinances in pursuance thereof, a person is required to obtain a license for any calling, occupation, business or vocation, and has, on complaint before the corporation court, been adjudged guilty of violating any rule, regulation or ordinance of the city in relation thereto, said court, in addition to the punishment to be imposed therefor, may suspend or revoke the license so granted.

18. The term "officer," as used in this charter, shall apply only to those officers who are elected by the people, or are appointed or confirmed by the Board of Commissioners for a fixed and definite period, and the same does not include policemen, except the Chief of Police, and does not include other agents or employes of said city. All city officers and employes shall enter into such bond for the faithful performance of their duties as the Board of Commissioners may require, by ordinance or resolution, and shall perform such other and further duties as the Board of Commissioners may from time to time prescribe.

19. All qualified electors of the State who shall have resided for six months immediately preceding the election within the limits of said city shall have the right to vote for Mayor and all other elective officers of said city, but in all elections to determine the expenditure of money, or assumption of debt or levy special taxes, only those shall be qualified to vote who pay taxes on property in said city, such qualification to be ascertained by an inspection of the assessment rolls.

20. The Board of Commissioners shall have the right to remit, in whole or in part, any fine or penalty belonging to the city, which may be imposed under any ordinance, or resolution passed in pursuance of this act.

21. No lien of any kind can ever exist against the public school build-

ings, public halls, parks, or public works of the City of Dallas. All sub-contractors, materialmen, mechanics and laborers upon any public works of the City of Dallas are hereby required to notify the city of all claims they may have on account of such work against the city, and when such notice has been given, the city shall retain an amount from any funds due the contractors, sufficient to satisfy all claims; provided, that such notice may be given at any time after such indebtedness becomes due and before final settlement; and provided further, that no contractor or sub-contractor shall issue any time checks on or on account of any public works of said city.

22. The Board of Commissioners shall require good and sufficient bonds of all contractors, with at least two good and sufficient sureties, who shall be residents of the State of Texas. No non-residents of the State shall ever be received as surety on any bond payable to the City of Dallas, except such guarantee companies as may be satisfactory to the Board of Commissioners, and in all cases at least one of the sureties must be a resident of Dallas County, Texas. When bondsmen are not residents of Dallas County such proof of their solvency may be required as the Board of Commissioners may deem necessary.

23. All appropriations made or set apart for the payment of any interest or sinking fund, or both, shall, under no circumstances, ever be diverted to any other purpose.

24. All questions arising in administering said city government, and not provided for in this act, shall be governed by the State law in such cases made and provided.

25. No office provided for in this act, not now already existing, shall be held to be created until the same is established by an ordinance of the Board of Commissioners.

26. This act shall be deemed a public act, and judicial notice shall be taken thereof in all courts and places, without the same having been pleaded or read in evidence.

27. The Board of Commissioners shall have the power to prohibit the working of State convicts within the corporate limits of the city.

28. The Board of Commissioners shall have power to prohibit minors from going and being on the public streets and in public places in the City of Dallas between the hours of 9 o'clock p. m. and 4 o'clock a. m., at night, without the consent of their parents or guardians.

29. The provisions of this act, in so far as they may conflict with any State law, shall be held to supersede the said law to that extent, and it shall not be held invalid on account of such conflict.

30. All elections shall be held according to the provisions of the law of the State of Texas applicable thereto; the presiding judges thereof shall be qualified voters in the city. The Board of Commissioners shall provide for their compensation and regulate and define their duties and powers, and they shall have such judges and clerks as are in such cases provided for by the laws of the State of Texas, which judges and clerks shall be selected by the presiding judge. In case the person so appointed the presiding judge is unable, fails or refuses to act as such, or the Board of Commissioners shall fail to appoint, or in case no presiding officer appears to open the polls, the attending qualified voters shall appoint such officer, who shall have the same powers, and perform all the duties of the presiding judge. But in such cases, such judges shall in

their returns certify that the presiding officer acting as such, was duly elected by the electors present.

31. The manner of conducting, and voting at such elections under this act, keeping the poll lists, canvassing the votes and certifying the returns, shall be such as is provided by the laws of the State of Texas for similar elections, and as may be provided by the Board of Commissioners by ordinance.

32. The managers of elections shall be sworn to well and truly conduct the elections, without partiality or prejudice, and agreeable to law, according to the best of their skill and ability, which oath shall be administered to the judges and clerks by the presiding officer. The presiding officer shall be sworn to discharge the duties of presiding officer of elections to the best of his skill and ability, which oath shall be administered by the Mayor, City Secretary or any justice of the peace.

32. Whenever it shall happen in any election that there is a tie between one or more candidates for the same office, the Board of Commissioners shall declare such election void as between such candidates, and order a new election for such office, giving at least ten days' notice thereof.

Every person elected or appointed to any office in the City of Dallas shall, before he enters upon his duties, take the official oath prescribed by the State Constitution, and such additional oath as the Board of Commissioners may prescribe to secure a faithful performance of duty.

Any officer ceasing to possess any of the qualifications required of him at the time of his election, shall thereby vacate his office, and the same shall be filled as herein provided.

34. All rules and regulations and ordinances concerning the police and fire departments of the City of Dallas in force when this act goes into effect, and which are not in conflict with this act, shall be and remain in force until altered, amended or repealed by the Board of Commissioners; and all such rules and regulations and ordinances as may be in conflict with this act are hereby repealed.

No person shall be eligible to appointment, or to be appointed, or serve as a policeman, officer of police, or fireman of the City of Dallas who shall have been convicted of any offense, the punishment for which may be confinement in the State penitentiary; nor shall any person be appointed who is not shown to be of good character, or who can not read and write the English language, or who does not possess ordinary physical strength and courage.

All policement and firemen of the City of Dallas shall hold their positions during good behavior, and shall not be removed from same except for such cause as in the opinion of the Board of Commissioners renders them unfit to remain in the service of the city, and after written notice giving the grounds for such discharge or removal and an opportunity to be heard on such charges, or reasons.

The Board of Commissioners shall have the authority to make provision for the care and sustenance of policemen and firemen who have been disabled while in the active discharge of their duties in the service of the city, or who after long and continuous service have become, by reason of old age and infirmities, incapacitated to discharge their duties. After January 1, 1910, all policement and firemen who shall have served continuously for ten consecutive years and who have not been found

guilty of any charges for violation of any of the rules of said department, shall each receive as salary the sum of \$2.50 per month in addition to their regular salaries; for fifteen years of such service, \$5 per month in addition to their regular salaries; for twenty years of such service, \$7.50 per month in addition to their regular salaries; for twenty-five years of such service, \$10 per month in addition to their regular salaries.

35. The offices of Mayor, Aldermen, Police Commissioner and Fire Commissioner, as said offices are at present created and constituted by the city charter of the City of Dallas, Texas, are hereby abolished and vacated; and such offices and the salaries thereof shall wholly cease and expire at the time when the Mayor and Board of Commissioners, as constituted in this act, shall be elected and qualified. All other officers, including the Chief of Police and the Chief of the Fire Department of the City of Dallas, shall have the right to serve until the end of the terms for which they were respectively appointed or elected. Such officers shall, however (except the members of the Board of Education), be under the direct control, supervision and management of the Board of Commissioners, as herein created, and each of said officers shall be subject to removal by said Board for incompetency, insubordination or any other good cause, if complaints or charges shall be preferred against him and upon trial thereof he shall be found guilty by said Board of Commissioners. The salaries of said officers so retained shall not be increased or diminished during their terms of office.

36. It shall be the duty of the Mayor as soon as this act shall take effect to order an election on the sixth Tuesday after this act takes effect, at which election a Mayor and four Commissioners shall be elected at large in the City of Dallas, and the proposed bond issues and special tax described in Section 3, Article XI, shall be submitted to the qualified property taxpayers of said city. If for any reason the Mayor shall fail to make such call for said election within forty days after this act becomes a law then it shall be the duty of the county judge of Dallas County to issue said call for said election and to give twenty days' notice thereof. Said election shall be held according to the laws of the State of Texas applicable thereto, except where the same may be in conflict with the provisions of this act.

The presiding officers thereof shall be qualified voters of the City of Dallas and shall receive such compensation and perform such duties as may be provided by law and ordinances of the City of Dallas. In case such presiding officer so appointed fails or refuses to act, or in case no presiding officer appears to open the polls, the attending qualified voters shall appoint such officer, who shall have the same powers and perform all the duties of presiding judge. But in such cases such judges shall, in their return, certify that the presiding judge acting as such, was duly elected by the electors present, naming at least three such qualified electors present and voting. The Mayor and four Commissioners elected at said election, as provided herein, shall hold their respective offices, perform their duties and receive their pay until the first Tuesday in April A. D. 1909, and until their successors are elected and qualified. There shall be held on the first Tuesday in April, A. D. 1909, and every two years thereafter, unless otherwise provided by law, a regular election for a Mayor and four Commissioners, who shall perform their duties and discharge the obliga-

tions conferred upon them by this act, and who shall retain their offices for two years and until their successors are elected and qualified.

37. All taxes heretofore levied and assessed by the City of Oak Cliff and not collected when this act goes into effect shall be collected by the City of Dallas as other taxes are collected.

38. The public schools of Oak Cliff, as they now exist, shall be maintained and kept at the present high standard, including all the grades as they are now maintained under the control and management of the Board of Education of the City of Dallas and the provisions of the charter of the City of Dallas applicable thereto.

39. There shall always be maintained within the said territory of Oak Cliff heretofore annexed to the said City of Dallas, an adequate fire station properly and adequately equipped with sufficient force to operate the same without discrimination.

Said territory of Oak Cliff heretofore annexed to the City of Dallas, is hereby declared to be a residence district and the city government of Dallas shall never have authority to permit any intoxicating liquors to be sold, bartered or exchanged within said limits. The present statute of local option as it now exists in said territory of Oak Cliff shall not be repealed or changed by any act of the city government of Dallas, and should any election be held on said question it shall be held solely in the entire justice precinct in which the City of Oak Cliff was and is situated prior to the adoption of this act, to-wit: precinct No. 7, Dallas County, Texas, as it is now constituted.

The Board of Commissioners of the City of Dallas shall expend for street improvements within the limits of the territory of Oak Cliff heretofore annexed to the City of Dallas, annually, not less than two thousand (\$2000) dollars for a period of five years from and after the 3rd day of July, 1903.

All lawful franchises and contracts made and granted by the City of Oak Cliff shall continue valid and unaffected by the embracing or including within the limits of Dallas the said territory; provided, that, all moneys heretofore required by any of said contract to be paid to the City of Oak Cliff shall after the passage of this act be paid to the City Dallas.

40. It shall be unlawful for any person to incumber or obstruct any street, highway or grounds of the City of Dallas with any posts, boxes, lumber, fences or with anything else. Any person violating the provisions of this section shall be subject to a fine in any sum in the corporation court, not exceeding two hundred dollars, and each and every day that any obstruction shall exist shall constitute a separate and distinct offense.

41. No officer or employe of the City of Dallas shall ever accept, directly or indirectly, any gift, favor, privilege or employment from any public utility corporation enjoying a grant of any franchise, privilege or easement from said city, during the term of office of such officer, or during such employment of such employe, except as may be authorized by law or ordinance. Any officer or employe of the city who shall violate the provisions of this section shall be adjudged guilty of a misdemeanor and shall be imprisoned in the county jail not less than three months nor more than twelve months, or shall be fined not less than five hundred dollars nor more than one thousand dollars, or may be punished with

both such fine and imprisonment, and shall be subject to removal from office.

42. No contract shall be entered into by the Board of Commissioners until after an appropriation has been made therefor, nor in excess of the amount appropriated, and all contracts shall be made upon specifications, and no contract shall be binding upon the city unless it has been signed by the Mayor and countersigned by the Auditor and the expense thereof charged to the proper appropriation; and whenever the contract charged to any appropriation equals the amount of said appropriation, no further contracts shall be countersigned by the Auditor.

All contracts, of whatever character, pertaining to public improvements, or the maintenance of public property of said city, involving an outlay of as much as five hundred (\$500) dollars shall be based upon specifications to be prepared and submitted to and approved by the Board of Commissioners; and after approval by the Board of Commissioners, advertisement for the proposed work, or matters embraced in said proposed contract, shall be made, inviting competitive bids for the work proposed to be done, which said advertisement shall be published in a daily newspaper not less than five times. All bids submitted shall be sealed, shall be opened by the Mayor in the presence of a majority of the Board of Commissioners, and shall remain on file in the office of City Secretary and be open to the public inspection for at least forty-eight hours before any award of said work is made to any competitive bidder.

The Board of Commissioners shall determine the most advantageous bid for the city, and shall enter into contract with the party submitting the lowest secure bid; and if, in the opinion of the Board of Commissioners, none of said bids are satisfactory, then the Board of Commissioners may have the said work done by day labor, and a detailed statement of all such work done by day labor, showing the cost of same, shall be filed with the Board of Commissioners. Pending the advertisement of the work or contract proposed, specifications therefor shall be on file in the office of the City Secretary, subject to the inspection of all parties desiring to bid.

43. In addition to all powers elsewhere granted in this act, the City of Dallas shall have power to prohibit the erection, construction and maintenance of oil houses, where oil is stored, or oil yards in any portion of the city, and to prohibit the erection of such oil houses or oil yards where oil is stored within certain distances of the main lines of any railroad, and to prohibit the erection and location of oil houses and the storing of same in any part of the residence district of the city, and to authorize the inspection of all such oil houses and oil yards; and to require the building or construction of all oil houses out of fire proof material. To require the construction of suitable fire-escapes on or in hotels, lodging houses or other buildings, whether now built or hereafter to be built; to regulate the construction of all passenger or freight elevators used in buildings and to provide for their inspection, and to pass all suitable laws necessary for the safety and protection of life or property in the use of such elevators; to regulate and prohibit the construction of livery stables or blacksmith shops in the resident portion of the City of Dallas; to prohibit the erection or construction of any building or structure of any kind within the City of Dallas without a permit first having been issued by the city for the construction or erection of such building or structure.

and to authorize a fee to be charged for such permit; to authorize the inspection by the city of all buildings or structures during the progress of their construction; to require that all buildings shall be constructed in conformity to the building regulations which may exist in said city, or which shall hereafter be passed; to license, tax and regulate draymen, hackmen, omnibus drivers, baggage wagon drivers, and drivers of vehicles of every kind, and all others pursuing like occupations, with or without vehicles, and prescribe their compensation, and to make it a misdemeanor for any person to attempt to defraud them of any legal charge for services rendered; to regulate stands for vehicles and regulate license and restrain runners for railroads, vehicles of any kind, hotels, public houses of any kind, or other business of any kind; to prohibit or regulate hacks, move wagons, baggage wagons or drivers of any thereof from making public stands in the streets of the city, and the Board of Commissioners may, if in their judgment they deem best, prescribe certain bounds, within which no hack, move wagon or other vehicle or wagon let for hire shall occupy any portion of the public streets therein for the purpose of a public stand or a private stand.

44. The Board of Commissioners shall have power to summon and compel the attendance of witnesses, and the production of books and papers before them whenever it may be necessary for the more effective discharge of their duties, and shall have the power to punish for contempt before them with the same fines and penalties as the County Judge may punish for contempt before the county court. All process shall be signed by the Mayor and attested by the City Secretary, and shall be served by the Chief of Police or any police officer of the said city.

45. In the event any part, article, section or subdivision of this act shall be held to be unconstitutional or invalid for any reason, such holding shall not be construed to invalidate or impair the remainder of the act, but the same shall continue in full force and effect notwithstanding such holding.

46. The Act entitled "An Act to incorporate the City of Dallas and grant it a charter," contained in the special laws of the Twenty-ninth Legislature, and all other acts relative to the incorporation of the City of Dallas, so far as the same may conflict with this act, shall be and the same are hereby repealed, but all property actions, rights of action, claims and demands of every nature and kind whatever vested in the city or existing or asserted against the city, under and by virtue of said laws hereby repealed, shall vest in and remain and inure to the said corporation and to the persons asserting such claims against it, under this act as fully and completely in all respects as if the said laws had not been repealed.

47. Whenever any power, authority or right is conferred herein upon the City of Dallas, or upon the Board of Commissioners, and provisions are incorporated herein for the exercise thereof in different ways, each of such provisions shall be held and construed to be cumulative of the other referring to the same subject, and in such cases, the Board of Commissioners shall be empowered to use its own discretion with respect to which of such powers it shall exercise.

48. All elections for the approval or rejection of bond issues, the granting of franchises and the levying of special taxes, wherein such matters shall be submitted to a vote of the taxpayers of the city, shall be held at

a general election in said City of Dallas, and the elections held to elect members of the Board of Commissioners and the Board of Education shall be the only elections in said city which shall be denominated general elections.

49. The City of Dallas shall have the same right of appeal as is allowed the defendant from the judgment of the Corporation Court in all criminal cases involving the constitutionality or validity of any statute of the State of Texas or any ordinance of the City of Dallas.

50. There shall be printed upon the official ballot to be used at the first election to be held under this act, above the names of the candidates upon said ballot the following words:

“For the recall.”

“Against the recall.”

Every qualified voter voting at said election shall be entitled to vote upon said subject. In the event of a majority of the voters who shall vote thereon shall vote in favor of the recall, the provisions of article 9 of this act relating to said subject, including all of the provisions of said article, shall become operative and shall have full force and effect as all other provisions of this act. If, however, a majority of the voters voting upon said subject shall vote against such recall provisions, the same including all the provisions of said article 9, shall not take effect and shall not have the force of law; provided, however, that if it shall be held that this subdivision of this act is unconstitutional or invalid for any reason, such holding or decision shall not in any way effect or impair any other article, section, subdivision or provision of this act. And provided further, that in the event this subdivision of this act shall be held unconstitutional or invalid for any reason, such holding shall only affect this subdivision and shall not be construed to invalidate the provisions of article 9 of this act relating to such subject.

51. The fact that the people of Dallas have voted to request the Legislature to pass a bill creating a new charter for said city under which it will have a commission form of government, the near approach of the end of the session, and the crowded condition of the calendar, creates an emergency and an imperative public necessity requiring that the Constitutional rule requiring bills to be read on three several days be suspended and said rule is hereby suspended, that this act shall take effect and be in force from and after its passage, and it is so enacted.

A. B. DAVIDSON,
President of Senate.

THOS. B. LOVE,
Speaker of House of Representatives.

Approved April 13, 1907.

T. M. CAMPBELL, Governor.

I hereby certify that the within S. B. No. 316 passed the Senate April 3, 1907, by two-thirds vote, ayes 27, nays 0. House amendments concurred in April 8, 1907, by two-thirds vote, ayes 25, nays 0.

CLYDE D. SMITH,
Secretary of Senate.

I hereby certify that the within S. B. No. 316 passed the House of Representatives with amendments April 8, 1907, by the following vote, yeas 105, nays 0.

BOB BARKER,
Chief Clerk House of Representatives.

Received in the Executive Office, this 12th day of April, A. D. 1907, at 11 o'clock and — minutes a. m.

A. M. BARTON,
Private Secretary.

Received in Department of State, this 13th day of April, A. D. 1907, at 12 o'clock and 15 minutes p. m.

L. T. DASHIELL,
Secretary of State.

THE STATE OF TEXAS,
Department of State.

I, L. T. Dashiell, Secretary of State of the State of Texas, do hereby certify that the attached and foregoing is a true and correct copy of S. B. No. 316, being an Act entitled "An Act to grant a new charter to the City of Dallas, Dallas County, Texas; repealing all laws or parts of laws in conflict herewith, and declaring an emergency," passed and enacted by the Thirtieth Legislature of the State of Texas, and now on file in this department.

In testimony whereof, I hereto sign my name officially and cause to be impressed hereon the seal of State at my office in the City of Austin, Texas, this the 16th day of April, A. D. 1907.

[Seal]

L. T. DASHIELL,
Secretary of State.

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CHARTER

OF THE

CITY OF DALLAS



1907

(Including Amendments of 1909)

CHARTER OF THE CITY OF DALLAS 1907

(Including Amendments of 1909)

S. B. No. 316.

An Act to grant a new charter to the City of Dallas, Dallas County, Texas repealing all laws or parts of laws in conflict herewith, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

ARTICLE I.

Incorporation and Territory.

Section 1. **Corporate Name.** All inhabitants of the City of Dallas, Dallas County, Texas, as the boundaries and limits of said city are herein established or may be hereafter established, shall be a body politic, incorporated under, and to be known by, the name and style of the "City of Dallas," with such powers, rights and duties as herein provided.

Sec. 2. **Boundaries.** The bound and limits of the City of Dallas are hereby established and described as follows: Beginning at the south corner of the A. C. McDaniel survey in Dallas County, Texas, at low water mark of the Trinity River, on the east bank thereof; thence northeast with the southeast line of said McDaniel survey to the west line of Edgar Street; thence northwest with the S. W. line of Edgar Street, 25 feet, corner thereon at a point which would be the intersection of the northwest line of Romine Avenue if extended across Edgar Street; thence northeast with said northwest line of Romine Avenue to a point thereon $132\frac{1}{2}$ feet southwest from the southwest line of Colonial Avenue; thence southeast parallel to said line of Colonial Avenue to corner on the northwest line of Hickman Avenue; thence southwest with said line of Hickman Avenue $79\frac{1}{2}$ feet to corner thereon; thence southeast 180 feet; thence northeast parallel to said line of Romine Avenue 242 feet to a point which would be the center of said Colonial Avenue if extended southeast from Hickman Avenue; thence northwest with said center line of said Colonial Avenue if extended 140 feet to the said southeast line of said Hickman Avenue; thence northeast with said line of Hickman Avenue 30 feet to corner thereon, at a point where the northeast line of Colonial Avenue would intersect if extended across Hickman Avenue; thence northwest

with said line of Colonial Avenue, extended and with said line of Colonial Avenue to corner on the said southeast line of said McDaniel survey; thence northeast with said line of said McDaniel survey to corner on the northeast line of the right of way of the Houston & Texas Central Railroad; thence north 36 west with said line of said right of way to the northwest line of Lenway (Holman) Avenue; thence northeast with said line of Lenway (Holman) Avenue to the southwest line of South Camp Street; thence northwest with said line of South Camp Street to the southwest line of Warren Avenue; thence northeast with said line of Warren Avenue to the northwest line of the Winchester Place addition, the east end of said Warren Avenue, and continue on same course to the northeast line of Trunk Avenue, the same being the southwest line of block 1387; thence southeast with said line of Trunk Avenue to the southeast line of Dallas Avenue; thence northeast with said line of Dallas Avenue to the southwest line of Second Street; thence northwest with said line of Second Street to the northwest line of Julius Street; thence northeast with said line of Julius Street to the northeast line of First Street, the same being on the southwest line of block No. 1436; thence southeast with said line of First Street to the south corner of said block No. 1436; thence northeast with the southeast line of said block No. 1436 and a continuation thereof to the east corner of block No. 1436 on the southwest line of block No. 1435; thence southeast with said line of said block No. 1435, about 90 feet to the south corner of same; thence northeast with the southeast line of said block No. 1435, and a continuation thereof to the north line of the Texas & Pacific Railroad right of way; thence eastwardly along said right of way about 863 feet to the northwest line of Du Pree Street to the southeast corner of block No. 1448; thence northwestwardly along said line of Du Pree Street and along the east line of block 1448, and the east line of block No. 1447 and a continuation thereof to the north line of Forney Avenue (and known as the Kaufman Road) the same being the south line of Rowan's Addition; thence eastwardly along said line of said Avenue to the southeast corner of said Rowan's addition; thence northwest along the northeast line of said Rowan's addition, and a continuation thereof to the northwest line of Orphan Avenue, the same being on the southeast line of R. D. Caldwell's Addition; thence northeast along said line of Orphan Avenue and said line of said Caldwell's Addition, to the east corner thereof, on the southwest line of Henderson Avenue; thence northwest along said line of Henderson Avenue and along the northeast line of said Caldwell's Addition and a continuation thereof to the corner of the northwest line of the right of way of the Gulf, Colorado

& Santa Fe Railroad; thence northeast along said line of said right of way to the southwest line of Beacon Street; thence northwest with said line of Beacon Street to the southeast line of Columbia Avenue; thence northeast with line of Columbia Avenue to a corner thereon 118 feet northeast of the northeast line of Fulton Street; thence northwest parallel to Henderson Avenue to corner on the northwest line of Reiger Avenue as platted in Junius Heights Addition; thence southwesterly with said line of Reiger Avenue and said line extended to the northeast line of Augusta Street; thence northwest with said line of Augusta Street if extended to the south line of Gaston Avenue as extended in Munger Place Addition; thence southwest with the south line of Gaston Avenue to the south line of Munger Boulevard; thence northwest along said south line of Munger Boulevard to the west angle of the intersection of Bryan Street and Greenville Avenue; thence north with said west line of Greenville Avenue to a point thereon west from the southwest corner of the Alta Vista Addition; thence east crossing Greenville Avenue and continuing same course along the south line of said Alta Vista Addition to the southeast corner of same; thence north along the east line of said Alta Vista Addition to the northeast corner thereof; thence west along the north line of said addition to west line of Hubert Street; thence north along the west line of Hubert Street to the south line of Lewis Street; thence west along south line of Lewis Street, and continuing along the south line of Taylor Street to Bowles Avenue (now Henderson Avenue); thence northwest with said line of Bowles Avenue (now Henderson Avenue) to the southwest line of street known as Juliette (or Monarch) Street; thence southwest with said line of Juliette Street to the northeast line of Woodland Avenue; thence northwest with said line of Woodland Avenue to a point about 27 feet north, 20 feet east from the north corner of Fake's Park Place Addition; thence southwestwardly to said corner of said Fake's Park Place Addition, and continuing same course along the northwest line of said Fake's Addition, and along the northwest line of Alexander's Park Addition to the west corner thereof on the northeast line of Carroll Avenue; thence northwest with said line of Carroll Avenue if extended to a point thereon where the said line of Carroll Avenue so extended would intersect the southeast line of Weldon Street if extended; thence southwesterly along the said south line of Weldon Street, if so extended to the northeast line of Haskell Avenue; thence northwest with said northeast line of Haskell Avenue and a continuation thereof to the southeast line of Cole Avenue; thence northeast and northeasterly with said line of Cole Avenue to a point thereon 60 feet at right angles across

said Cole Avenue from the east corner of $58\frac{1}{2}$ by 185 foot lot in name of O. E. Bateman in block No. 987; thence northwesterly at right angles across said Cole Avenue to said east corner of said Bateman's lot and continuing same course along the northeast line of said $58\frac{1}{2}$ by 185 foot lot to the north corner of same on the southeast line of an alley in said block No. 987; thence southwesterly along said line of said alley $58\frac{1}{2}$ feet to the west corner of said Bateman lot; thence northwesterly at right angles to said alley to the southeast line of Travis Avenue; thence southwesterly and southwest with said line of said Travis Avenue to a point thereon which would be at the intersection of the southwest line of Quick Street, if extended southeast across Travis Avenue; thence northwest with said southwest line of Quick Street, extended and with said southwest line of Quick Street to the center of Turtle Creek; thence in a northerly direction up Turtle Creek with its meanders to corner therein the northeast corner of lot No. 3 of Cole's subdivision of 199 acres of the William Grigsby survey; thence west along the lines between lots 3 and 4 of said subdivision and a continuation thereof to the northeast line of Bowser and Lemmon's Oak Lawn Addition on the southwest line of said Quick Street; thence southeast with said line of Quick Street to the northwest line of Argyle Avenue; thence southwest along the northwest line of Argyle Avenue to the northeast line of Lemmon Avenue; thence northwest with said line of Lemmon Avenue to the northwest line of Douglas Street; thence southwest with said line of Douglas Street and a continuation thereof to the southwest line of Cedar Springs Avenue; thence southeast with said line of Cedar Springs Avenue to the northwest line of Pendleton Avenue (formerly Douglas Street); thence southwest with said line of Pendleton Avenue (formerly Douglas Street) and a continuation thereof to the southwest line of Routh Street; thence southeast with said line of Routh Street to the northwest line of Throckmorton Street; thence southwest with said line of Throckmorton Street to the southwest line of Maple Avenue; thence southeast with said line of Maple Avenue to the north corner of the City's Parkland Hospital tract of land; thence southwest with the northwest line of said hospital tract of land and a continuation thereof to the southwest line of the J. A. Sylvester survey; thence southeast along the southwest line of said Sylvester survey to low water mark on the southeast bank of the Trinity River; thence down said river with the meanders of low water mark on the east bank of same to the south line of Commerce Street; thence westwardly crossing said river and continuing same course along the south line of the Fort Worth Pike to the east line of Beckley Avenue; thence south with and along

the east line of Beckley Avenue to a point thereon 180 feet north from the north line of Okenwald Street; thence west 985 feet to a corner, the same being an original corner of the City of Oak Cliff; thence south with a west line of said Oak Cliff boundary to the intersection of same with the east line of Haynes Avenue; thence southwesterly with said line of Haynes Avenue to the north line of Fifth Street; thence west along said line of Fifth Street to the west line of Cedar Hill Avenue; thence north along the said line of Cedar Hill Avenue 470 feet to corner thereon; thence west 300 feet; thence south and southwesterly parallel to and 300 feet from the west line of said Cedar Hill Avenue to the north line of Davis Street (also known as Arthur Avenue); thence west with said line of Davis Street to a point thereon north from the northwest corner of the Midway Addition; thence crossing said Davis Street along the west line of the said Midway Addition to a southwest corner thereof; thence east along a northern south line of said addition, and a continuation thereof to the east line of Edgefield Avenue; thence south along said line of Edgefield Avenue to the southwest corner of block 253-3312, the same being the southern southwest corner of the Midway Addition; thence east to the southeast corner of Block No. 140-3199; thence north with the west line of Llewellyn Street about 50 feet to a point thereon at which the south line of the Catholic Orphan Home grounds would intersect if extended west; thence east across said Llewellyn Street and along the south line of said Catholic Orphan Home grounds to the southeast corner thereof; thence north about 30 feet to a point on the west line of Adams Avenue, at which the said line of block 72-3193 would intersect if extended west; thence east across Adams Avenue to the southwest corner of said block, and continuing same course along the south line of the Dallas Land and Loan Company's second addition, and a continuation thereof to the east line of Beckley Avenue; thence south along said line of Beckley Avenue to the south line of the W. H. Hord survey; thence east along the south line of said Hord survey to the east line of Ewing Avenue; thence south with said line of Ewing Avenue 439 feet; thence east 397 feet to the west line of a street; thence north 439 feet to the said south line of said Hord survey; thence east with said line of said survey to the southeast corner of same; thence north with the east line of said Hord's survey to the center of the channel of Cedar Creek; thence northeasterly down said creek with the meanders of same to corner therein on the west line of said Gaston road to the southwest line of the Hutchins road; thence northwesterly with said Hutchins road and a continuation thereof to the west line of

Miller Avenue; thence north with said line of Miller Avenue to the north line of (First Street) Brazos Street; thence east about 30 feet to the west line of W. S. Beaty survey; thence north with the said line of said Beaty survey and a continuation thereof to the low water mark on the east bank of said Trinity River; thence southeasterly down said river with the meanders of said low water mark to the place of beginning.

Sec. 3. **Platting of Property.** Should any property lying within the city limits as established by this act be hereafter platted into blocks and lots, then and in that event the owners of said property shall plat and lay the same off to conform to the streets, and lots abutting on same, and shall file with the city engineer a correct map of same; provided, that in no case shall the City of Dallas be required to pay for any of said streets at whatever date opened, but when opened by reason of the platting of said property at whatever date platted, they shall become by such act the property of the City of Dallas for use as public highways, and may be cared for as such.

Sec. 4. **Additional Territory.** Any territory adjoining the present or future boundaries of said city may from time to time in any size or shape desired, be admitted and become a part thereof on application made or written consent given to the city council by the owner or owners of the land, or, as the case may be, by a majority of the legal voters resident on the land sought to be added. In all such cases the territory so added shall be described by metes and bounds, in an ordinance accepting, assenting and adding the same to the municipal corporation; and thereafter the inhabitants of said added territory shall in all respects be on an equal footing with the inhabitants of the original municipal territory.

ARTICLE II.

Powers of the City.

Section 1. **General Powers.** 1. The City of Dallas made a body politic and corporate by this act shall have perpetual succession, may use a common seal, may sue and be sued, may contract and be contracted with, implead and be impleaded in all courts and places, and in all matters whatever, may take, hold and purchase lands as may be needed for the corporate purposes of said city, and may sell any real estate or personal property owned by it; perform and render all public services, and, when deemed expedient, may condemn property for public use, within or without the city; and may hold, manage and

control the same; such condemnation proceedings to be governed and controlled by the law now in force in reference to the condemnation of the right of way of railroad companies and the assessment of damages therefor, and shall be subject to all the duties and obligations now pertaining to or incumbent upon said city, as a corporation, not in conflict with the provisions of this act, and shall enjoy all the rights, immunities, powers, privileges and franchises now possessed and enjoyed by said city and herein granted and conferred.

2. The City of Dallas shall have power to enact and to enforce ordinances necessary to protect health, life and property and to prevent and summarily abate and remove nuisances, and to preserve and enforce the good government, order and security of the city and its inhabitants; to protect the lives, health and property of the inhabitants of said city, and to enact and enforce any and all ordinances upon any subject; provided, that no ordinance shall be enacted inconsistent either with the laws of the State of Texas, or inconsistent with the provisions of this act; and provided further, that the specification of particular powers herein authorized shall never be construed as a limitation upon the general powers herein granted, it being intended by this act to grant and bestow upon the inhabitants of the City of Dallas full power of self-government, and it shall have and exercise all powers of municipal government not prohibited by this charter, or by some general law of the State of Texas, or by the provisions of the Constitution of the State of Texas.

3. All real estate owned in fee simple title, or held by lease, suffrance, easement or otherwise; all public buildings, market houses, school buildings, school houses, fire engine stations, public squares, parks, street, alley and all property of whatever kind, character and description which has been granted, donated, purchased, or otherwise acquired by the City of Dallas through any means or agency, and all causes of action, choses in action, rights or privileges of every kind and character, and all property of whatsoever character or description which may have been held, and is now held, controlled or used by said City of Dallas for public uses or in trust for the public shall vest in, and remain in and inure to, the said corporation, the City of Dallas, under this act; and all suits and pending actions to which the City of Dallas heretofore was, or now is a party, plaintiff or defendant, shall in no wise be affected or terminated by the provisions of this act, but shall continue unabated.

Sec. 2. Revenue. 1. The City of Dallas shall have power,

and is hereby authorized annually to levy and collect taxes not exceeding one and one-half per centum of the assessed value of all real and personal property in the city not exempt from taxation by the Constitution and laws of the State. Provided, that the city shall have the power to levy and collect an additional tax of one per cent, or any fraction thereof, on the assessed value of all taxable property, real and personal, in said city, not exempt as aforesaid, if a majority of those authorized to vote on the assumption of debt by Section 3, Article VI, of the State Constitution, shall have first voted in favor of such levy at an election duly ordered for such purpose, the whole number of votes to be determined by the number voting upon such subject at such election.

2. In accordance with Section 10, Article XI, of the State Constitution, the City of Dallas may levy a special tax for one or more years for the purchase of ground, erection of buildings, and the support and maintenance of a seminary, academy, or high school, in connection with the public schools of the city, and may also levy a special tax in accordance with the State law, for the purpose of erecting additional public school houses or repairing those already built, or for the purchase of grounds therefor. The funds so raised shall be appropriated exclusively for the purpose named, and shall not be diverted therefrom. The aggregate tax levied for either or all of said purposes in any one year, shall never exceed one-fourth of one per cent, ad valorem, on the taxable value of all property in city. No such tax shall be levied until the question shall have been submitted to a vote of the taxpayers, at an election, by those entitled to vote thereon under the Constitution of the State. Such election shall be ordered by resolution of the Board of Commissioners, as in other elections.

3. The City of Dallas shall have power to levy and annually collect taxes, known as occupation taxes (except in cases where the laws of the State now in force prohibit the levy of occupation taxes by cities and counties), upon professions, callings and other business carried on, and upon carriages, hacks, coaches, buggies, drays, carts, wagons and all other vehicles used in the city for public use. Each and every person or firm, except where the levy of such occupation tax is prohibited by the general laws of the State, or upon which the State levies no occupation tax, engaged in the following professions, callings, and business, among others, shall be liable to pay such tax; but this enumeration shall not be considered as depriving the city of the right and power to levy and collect other occupation taxes under the general authority herein granted from other persons

upon whom an occupation tax is levied by the general law of the State. Every person or firm engaged in selling goods, wares and merchandise, liquors in quantities less than a quart, or in keeping any grog shop, tippling house, bar-room, drinking saloon, or any place where spirituous, vinous or malt liquors, wine or beer, are sold in quantities less than a quart; every person or firm keeping a billiard table, ball alley, nine or ten pin alley, or any similar game, or keeping a tavern, hotel or boarding house, restaurant, lunch stand, or place of any kind where refreshments are sold; every person or firm keeping a livery stable, sales stable, feed stable, or wagon yard; every person or firm selling goods, wares, or merchandise at public auction or pursuing the occupation of real estate agent, merchandise or cotton broker, commission merchant or broker of any kind, or hawker or peddler of any goods whatever; every person or firm keeping a storage or warehouse, or intelligence office, or brewery, or beer shop, distillery or fruit stand, or engaged in compressing cotton; every insurance agent, and every insurance company shall pay said tax, and every agent representing any such company who has failed to pay said tax, shall be subject to a fine; every telegraph, telephone, electric light, gas or other such company; every person or firm keeping a lumber, wood or coal yard, or any place for the sale of such articles, or building material of any kind; and all other persons or firms engaged in any profession, occupation, business, avocation or calling, subject to occupation tax by law of the State, shall pay on each; and no license tax shall extend to more than one establishment or include more than one avocation, occupation, business or calling. The power herein granted to levy and collect occupation taxes shall not be deemed to prohibit the imposing and collection of license fees on any business, calling or occupation upon which the city is authorized to impose a license by any provision of this charter.

4. The City of Dallas shall have power to assess the property and shares of corporations, companies, banks and such other institutions as the same are now or may be assessed by the State law in such cases made and provided, which shall be cumulative of all provisions of this act, and shall have full power to enforce the collection of such taxes in such manner as may be provided for herein and as by said Commission may be deemed necessary.

5. The City of Dallas shall have the right and power to borrow money on the credit of the city for permanent public improvements, and to issue bonds of the city therefor, to bear interest not to exceed 6 per cent per annum, payable semi-

annually, at such places as may be designated; provided, that the total indebtedness of the city of every kind and character whatsoever, shall never exceed the sum of five millions of dollars (\$5,000,000) and any issue of bonds which would, when added to the indebtedness of the city existing at the time increase the total indebtedness of the city beyond said amount of \$5,000,000, shall be wholly void as to such excess.

Any proposition to issue new or additional bonds, as authorized herein, as well as the amounts of such issuance and the purpose of the same, shall be first submitted to a vote of the qualified voters of the city, who are property taxpayers in said city, at an election to be held for that purpose. The time, place and manner of said election and the making of the returns and declaring the results thereof shall be prescribed by ordinance as nearly in accord with the laws regulating city elections as may be practicable, and unless a majority of the qualified taxpayers voting thereon in such election are in favor of the issuance of such bonds, the same shall not be issued, provided, that the purpose of the issuance of bonds, as submitted at such an election, may include more than one object. After an issue of bonds has been ordered, the Commission, however, shall have power to issue serial bonds, or otherwise, as in their opinion may seem best. All bonds shall specify on their face for what purpose they are issued, and shall not be invalid if sold for less than their par value, and when any bonds are issued by the city, a fund shall be provided to pay the interest and create a sinking fund sufficient to pay the bonds at maturity; and said sinking fund shall be invested in bonds of the State of Texas, or in bonds issued by the counties in the State of Texas, or in bonds of the United States, or in bonds of the City of Dallas, which are not yet due; provided, that in the event it shall be deemed expedient to issue serial bonds payable in equal annual installments, it shall be sufficient to provide for the payment of interest thereon and the annual installments as they mature.

6. Any officer of the city who shall wilfully or knowingly divert, or use any sinking fund for any other purpose except that for which the fund is created, or is herein expressly authorized, shall be deemed guilty of a felony, and subject to prosecution, as provided under the general laws of the State for the diversion and conversion of funds belonging to any of the municipalities of said State.

7. All bonds shall be signed by the Mayor, countersigned by the Auditor, and sealed with the seal of the city, and shall

be payable at such times as may be fixed not more than forty years from their date.

8. It shall be the duty of the Mayor when such bonds are issued, to forward the same to the Comptroller of the State, whose duty it shall be to submit the same, together with all information he may have relating thereto, to the Attorney General, and if the Attorney General shall find that such bonds have been issued in accordance with law, he shall endorse his approval thereon and return the same to the Comptroller, who shall register such bonds in a book kept for that purpose, and endorse on each bond so registered his certificate of registration and at the Mayor's request certify the amount of bonds so registered in his office up to date.

9. It shall be the duty of the Mayor at the time of forwarding said bonds for registration, to furnish the Comptroller with a statement of the amount of all taxable property, real and personal, in the city; also with a statement of the amount of tax levied for the payment of interest and to create a sinking fund. It is hereby made the duty of the Comptroller to see that a tax is levied and collected by the city sufficient to pay the interest semi-annually on all bonds and create a sinking fund sufficient to pay said bonds at maturity and see that said sinking fund is annually invested in good interest-bearing securities or applied to the redemption of the bonds for which it was set aside.

Sec. 3. Police Powers. The City of Dallas shall have power, by ordinance duly passed:

1. To establish and maintain a City Police Department, prescribe the duties of policemen, and regulate their conduct.

2 To permit, forbid or regulate theaters, balls, dance houses and other public amusements, and to suppress the same whenever the preservation of order, tranquility, public safety or good morals may demand.

3. To regulate dram shops, drinking saloons, and other places where intoxicating liquors are sold, to cancel licenses therefor for cause, and to close variety theaters when necessary, expedient or advisable.

4. To prohibit and punish keepers and inmates of bawdy houses and variety shows; to prevent and suppress assignation houses and houses of ill fame, and to regulate, colonize and segregate the same, to determine such inmates and keepers as vagrants, and provide for the punishment of such persons.

5. To inspect weights and measures, fix standards of weights and measures, and to fix penalties for not using or conforming to the same, and to provide that inspection fees may be fixed by ordinance.

6. To make all needful and proper regulations concerning keepers of taverns and grog shops, and other public houses, draymen, horse drivers, water carriers, omnibus drivers, hack drivers and drivers of baggage wagons, and other vehicles; to establish maximum rates for all kinds of transportation within the city limits, to prevent extortion, and to preserve order and prevent noise and confusion in and about the several depots on the arrival and departure of railway trains, and to provide how and where hacks or other carriers shall stand or take their position upon the streets adjacent to or near to said depots, and where they shall stand when not receiving or discharging passengers.

7. To suppress gambling houses, and to punish keepers of gambling houses and pool sellers, and all persons who play cards or games of chance of any kind, and to punish persons who sell lottery tickets or who advertise lottery drawings or schemes and results of drawing lotteries.

8. To provide for the regulation of bakers and to prescribe the weight, quality and price for bread manufactured or sold in the City of Dallas, according to the price of the material or otherwise, and to provide for the inspection of milch cows, whether kept within the city, or without the city limits, from which milk is sold within the city, and to provide for the inspection of the milk offered for sale, and to prescribe the fees to be charged therefor.

9. To establish and regulate public grounds, and to regulate and restrain and prohibit the running at large of horses, mules, cattle, sheep, swine, goats, geese and pigeons, and to authorize the distraining, impounding and the sale of same for the cost of the proceedings and the penalty incurred, and to order their destruction when they can not be sold, and to impose penalties upon the owners thereof for the violation of any ordinances regulating or prohibiting the same.

10. To tax, regulate, restrain and prohibit the running at large of dogs, and to authorize their destruction when at large contrary to ordinances, and to impose penalties upon the owners or keepers thereof.

11. To prohibit and restrain or regulate the rolling of hoops, the flying of kites and firing of firecrackers, the use of veloci-

pedes and bicycles, and the use of any pyrotechnic or any other amusement or practices tending to annoy persons passing upon the streets or sidewalks, or to frighten horses and teams.

12. To restrain and prohibit the ringing of bells or blowing of horns, bugles and whistles, crying of goods, and all other noises, practices and performances tending to the collection of persons in the streets or sidewalks by auctioneers and others for the purpose of business, amusement or otherwise.

13. To prohibit mendicants, beggars or persons of infirm or maimed bodies, or suffering with diseases of any kind, from soliciting alms, help or assistance upon the streets or sidewalks of said city, and to prescribe a penalty by fine for a non-observance thereof.

14. To prohibit and regulate the ringing of bells and blowing of whistles of railroad engines or locomotives within the city limits, and to regulate the speed thereof.

15. To regulate and control the driving of cattle, horses and all other animals into or through the city.

16. To prevent all trespasses and breaches of the peace and good order, assault and batteries, fighting, quarreling, using abusive language, profane and insulting language, misdemeanors and all disorderly conduct and to punish all persons thus offending.

17. To prevent and punish the keepers of houses in which loud or immoral theatrical representations are given, and to adopt summary measures for the removal or suppression of all such establishments.

18. To require, on due notice, all steam or street railway companies owning tracks within the city limits, upon the public streets or highways of said city, which may have been or may hereafter be abandoned by said companies by non-use, to remove such tracks and to restore at their own expense the street or way upon which such abandoned track is located to its former condition.

19. To prohibit, prevent and suppress horse racing, immoderate riding and driving in the streets of said city.

20. To prohibit cruel treatment of animals and to punish the abusers of animals.

21. To compel persons to fasten their horses or other animals attached to vehicles, or otherwise hitched, or standing in the streets.

22. To restrain and punish vagrants, mendicants, beggars and prostitutes.

23. To regulate and control the sale, gift, barter or exchange of cocaine, opium, morphine and the salts thereof.

24. To license, tax and regulate regular merchants, commission merchants, hotel and inn keepers, drinking houses or saloons, bar-rooms, beer saloons and all places or establishments where intoxicating or fermented liquors are sold; brokers, money brokers, real estate agents, insurance agents, insurance brokers, auctioneers, and all other trades, professions, occupations and callings of every kind. To license and regulate any itinerant or transient vendor of clothing or wearing apparel or article of bedding or merchandise of any description whatever, ticket brokers or scalpers or dealers in railway tickets, dealers in bankrupt or fire stocks, or damaged stocks of any kind, second hand dealers, pawn brokers, junk shops and dealers in junks, and all other business or occupations whatever, which in the opinion of the Board of Commissioners shall be the proper subject of police regulations. To require the person or persons or corporation pursuing any business or occupation mentioned in this section to give all bonds in such amounts and under such conditions as the Board of Commissioners may prescribe; to require the keeping of books showing the transactions of any such business or occupations and requiring the persons conducting such business or occupation to submit said books and their stocks to the inspection of the police at such times as may be prescribed by ordinance. No license shall issue for a longer period than one year, and such license shall not be assignable, except by permission of the Board of Commissioners.

25. To license, tax, regulate, prevent or suppress paupers, peddlers, pawnbrokers and keepers of theatrical or other exhibitions, shows and amusements. To license, tax and regulate or prohibit theaters, circuses, moving picture shows and exhibitions of common showmen, and of shows of any kind, and the exhibition of natural or artificial curiosities, menageries and musical exhibitions and performances, and to regulate and license or prohibit street parades, pool tables, striking machines, lung testers, doll racks, cane racks, and exhibitions, devices and things for which a fee is charged.

26. To prevent all boxing matches, sparring exhibitions, cock-fighting and dog-fighting and punish all persons thus offending.

27. To regulate, control and prohibit the carrying of fire-

arms and other weapons within the city limits, and to provide and inflict the same punishment therefor as is now or hereafter may be provided by State law against persons unlawfully carrying weapons.

28. To provide workhouses for vagabonds and disorderly persons who are unable or refuse to pay fines, or who have been sentenced to fine and imprisonment or to compel them to work on the streets, alleys and public works, and make all necessary regulations concerning the same, and to provide, keep and regulate a city prison.

29. To define what shall be nuisances in the city, and within three thousand feet of the corporation lines outside of the city limits and to abate such nuisances by summary proceedings, and to punish the authors thereof by penalties, fines and imprisonment.

30. To restrain, regulate and prohibit the selling or giving away indirectly, to evade a tax or penalty, of intoxicating or malt liquors, or anything by any person within the city, except by persons duly licensed, to forbid and punish the selling, bartering or giving away of any intoxicating or malt liquors to any minor, student, apprentice or habitual drunkard.

31. To prevent the sale, bartering and giving away of any intoxicating liquors in any house or place where any theatrical or dramatic presentations are given, and prevent the same from being brought in or to such places under any pretext whatever. All rooms, buildings or apartments of any kind inside of the room where such representations are given, or being a part of it, or adjoining or connecting therewith by any door or doors, dumb waiter or opening of any kind shall be held to be within the places inhibited by this section.

32. To regulate parapet walks, to prevent dangerous construction and condition of chimneys, fire places, hearths, stoves, stove pipes, boilers and other heating apparatus, and cause the same to be removed and made safe.

33. To regulate the use of automobiles, motor cars, motorcycles or any motor vehicles, and the speed thereof; to prescribe the proper lighting of same when used at night; to issue permits for the use of such vehicles and to require the numbering of said vehicles.

34. To control and regulate the location and use of all kinds of steam engines and steam boilers in the city, and prescribe the qualifications of persons operating and running same, and to

adopt such rules and regulations in relation thereto as may seem best for the public safety and comfort.

35. To inspect the construction of all buildings in the city, and to prescribe and enforce proper regulations in regard thereto; to regulate and locate or prohibit the erection of all poles in the city, and cause the same to be changed, whether telegraph, telephone, electric light or otherwise.

36. The city shall have power to establish, maintain and regulate a city prison, or city prisons, workhouses, and other means of punishment for vagrants, city convicts and disorderly persons, houses of correction and reformatories for youthful criminals.

37. The city shall have power to enforce the by-laws and ordinances for the city by a fine not to exceed two hundred (\$200.00) dollars; provided, that no ordinance or by-law shall provide a lesser penalty than is prescribed for a like offense by the laws of the State.

The City of Dallas may provide by ordinance, for the commutation of fines imposed, by labor in a workhouse, or on a rock pile, or upon the public streets and public highways of the City of Dallas, and for the collection of any fine imposed execution may be enforced as other execution issued in civil cases.

38. Whenever the forfeiture of a franchise, right or privilege granted to any person, firm or corporation to be exercised as a public utility is provided for in this act, the power to enforce such forfeiture shall not be construed to be in the Board of Commissioners, but such forfeiture shall be finally enforced only through the decree of a court of competent jurisdiction.

Sec. 4. Fires. The City of Dallas shall have power:

1. To provide means for the protection against and the extinguishment of fires, and shall provide for the regulation, maintenance and support of a Fire Department, and for the purpose of guarding against the calamity of fire, may prescribe fire limits, and may regulate or prohibit the erection, building, placing or repairing of wooden buildings within such limits in said city as may be designated and prescribed as fire limits, and may also within said limits prohibit the moving or putting up of any wooden buildings from without said limits, and may also prohibit the removal of any wooden buildings from one place to another within said limits, and may direct and prescribe that all buildings within the limits so designated in the ordinance as fire limits, shall be made or constructed of fire-proof material,

the kind, character, extent and quality of which buildings and material may, by ordinance, be prescribed and fixed, and may prohibit the repairing of wooden buildings in fire limits when the same shall have been damaged to extent of 33 1-3 per cent of the value thereof, and may prescribe the manner of finding such damages, and may declare all dilapidated buildings to be a nuisance, and direct the same to be repaired, removed or abated in such manner as the Board of Commissioners may prescribe, and may declare all wooden buildings in the fire limits which they deem dangerous to contiguous buildings, or which may cause or promote fires, to be nuisances, and may require and cause the same to be removed in such manner as may be prescribed, at the expense of the owner, and may further prescribe limits within which only a fire-proof roofing may be used, and may impose a penalty for violation of such rules and regulations.

The city shall have the right, by ordinance, to regulate, prescribe and govern the storage of lumber, sash, doors, blinds and any and all kinds of goods, wares and merchandise of every kind, and prescribe limits within which such material may be carried, and fix penalties for violation of the rules and ordinances governing the same.

2. To regulate or prevent the carrying on of manufactories and other works dangerous in causing fires, and to regulate the location of cotton presses, sheds and other buildings dangerous on account of fires.

3. To prevent the deposit of ashes in unsafe places and cause the removal from one's premises of all trash, old papers, straw, goods-boxes, barrels and anything else dangerous on account of fire, and of all filth, slops and animal or vegetable matter and everything else offensive and dangerous to health and comfort, and to cause all buildings and enclosures in a dangerous state to be put in a safe condition.

4. To regulate the size, number and manner of construction of doors and stairways of theaters, tenement houses, hotels, boarding houses, apartment houses, audience rooms, public halls and buildings used for the gathering of a large number of people, whether now built or hereafter to be built, so that there may be convenient, safe and speedy exit in case of fires.

5. To require the construction of suitable fire escapes on or in hotels, lodging houses, factories and other buildings, whether now built or hereafter to be built.

6. To regulate, prevent and prohibit the use of fire-works.

7. To compel the owners or occupants of houses or other

buildings to have scuttles in their roofs and stairs or ladders leading to the same.

8. To authorize one or more officers, agents or employes of the city to enter in and upon all buildings and premises, to examine and discover whether the same are dangerous on account of fire, or in any unclean state, and cause all defects to be remedied, and filth and trash to be removed, and generally the Board of Commissioners shall have the power to establish such regulations for the prevention and extinguishment of fires as it may deem expedient.

Sec. 5. Health.—The City of Dallas shall have power:

1. To regulate burial grounds, crematories and cemeteries, and to prohibit burial within the city limits if deemed advisable or if necessary to protect the public health, and to condemn and close burial grounds and cemeteries in the thickly settled portions of the city, and when demanded by the public interest or public health, to remove or cause to be removed bodies interred in such condemned and closed cemeteries and burial grounds, and shall cause them to be re-interred in a suitable place to be provided by the city, at its expense, and whenever advisable the city may condemn the land proposed to be used for the re-interring of bodies in the same manner as in condemnation suits of railway companies, and use such condemned ground formerly used for cemeteries, for such purposes as may best subserve the interests of the city.

The City of Dallas shall have power to acquire land and grounds inside or outside the city limits by purchase, gift, or otherwise, to be devoted to and used for the purpose of a public and private cemetery, and to pass such suitable regulations concerning the burial of the dead in such cemetery, and make such charges for the burial of the dead therein as may be deemed proper by the Board of Commissioners, and said city shall also have the power to appropriate private property lying within or without the city limits to be used and devoted to cemetery purposes, as herein stated by condemnation proceedings brought for such purpose, and in all such cases the proceedings had to condemn such land shall be governed and controlled by the State law in reference to the condemnation of land by railroad companies as far as the same may be applicable thereto.

2. To regulate the burying of the dead, the registration of births and deaths, direct the keeping and returning of bills of mortality, and impose penalties on physicians, undertakers, sextons and others for any default in the premises.

The City of Dallas shall also have the power, by ordinance,

to authorize the destroying of clothing, bedding, furniture and buildings infected with the germs of any infectious or dangerous diseases, when the public health requires the destruction of the same, and may also in the same manner authorize the destruction or removal of buildings or other objects after the same shall have been declared a nuisance and to be dangerous to the health or lives of the citizens of said city.

4. To make regulations to prevent the introduction of contagious diseases into the city, to make quarantine laws for that purpose, and to enforce them with the city and within ten miles thereof.

5. The City of Dallas is hereby given full power and authority to take such steps to improve and preserve the purity of the water in Trinity River, above the city of Dallas, as it may think necessary; provided, that the power of this section shall not be construed to give said corporation any jurisdiction or control over said river beyond the corporate limits of said city, except for the purpose of protecting or improving the water shed, i. e., the water supply of both Trinity river and the smaller streams or tributaries; provided, further, that the said corporation shall have the right to condemn land, buildings and out-houses or closets when it may deem the same necessary for the protection and preservation of the purity of the water in said river, and shall have powers to control the same.

The City of Dallas shall also have power to require any persons or corporations owning or operating manufacturing enterprises within or without the city, which shall discharge refuse matter into Trinity river or its tributaries, to make other provisions for such refuse matter, or so purify the same as that the public health will be fully protected.

6. To require the owners of private drains, sinks, privies, to fill up, cleanse, drain, alter, repair, fix and improve the same, as they may be ordered by resolution or ordinance, and impose penalties upon persons failing to do the same. If there be no person in the city upon whom such order can be served, the city can have such work done, and costs of the same shall be a lien on the property and taxed up against it, and collected in such manner as the Board of Commissioners may determine.

7. To prevent any person from bringing, depositing or having within the city limits, the carcasses of any dead animal, or other unwholesome substance, or matter, or filth of any kind, and to require prompt removal of the same, and impose all necessary penalties for the enforcement of such powers.

8. To provide for the inspection of dairies inside and out-

side the city limits, doing business within the city, and to charge and provide license fees for inspection; to establish and maintain a standard of sanitary conditions governing dairies inside and outside the city, doing business within the city; to establish and maintain a standard of the quality of all dairy products sold in the city, and to provide for penalties for the violation thereof.

9. To regulate, license or prohibit butchers and prevent their slaughtering animals in the city limits, and revoking their license for malconduct in trade, and to regulate, license and restrain the sale of fresh meat, fruits and vegetables, and the slaughter of animals, and to license and regulate or prohibit slaughter houses within the city limits.

10. To compel the owner or occupant of any grocery, soap, tallow or chandler establishment or blacksmith shop, tannery, stable, slaughter house, distillery, brewery or other building, or sewer, privy, hide house, or other unwholesome or nauseous place or house to cleanse, remove, fill up, repair or abate the same, as may be necessary for the health, comfort and convenience of the inhabitants.

11. To regulate the inspection and slaughter of animals and the sale of fresh meats within the city, and the inspection and the sale of beef, pork, flour, fish, salt and other provisions; whisky and other liquors, and all other articles of food or drink whatsoever, to be consumed within the city, and to appoint inspectors, weighers and gaugers, and prescribe their duties and powers, and to regulate their fees, and to provide for the inspection and weighing of hay and coal, ice, and the measurement of firewood and other fuel to be sold in the city.

12. To regulate, restrain, locate, abate, or prohibit slaughter houses, gas reservoirs and tanks, glue factories, bone boilers, hide houses or establishments for burning hides, soap factories, places for rendering lard, tallow, offal, and other substances that can be rendered, and all other establishments where any nauseating, dangerous, offensive or unwholesome business may be carried on.

13. The City of Dallas shall have the right and power, by ordinance, to provide that the tenant or owner of any property shall pay to the city reasonable charges for the removal of night soil or other refuse matter from the closets of the premises thereof, and to prohibit anyone except someone in the employ of the city, or by the city authorized to do so, from removing or carrying away the contents of any privy, vault or water closets, or any receptacle of human excrement, and the

city shall have the right to have inspected the premises of all persons, at any time, in the interest of the public health, and for the purpose of making said inspection, the officers or agents of the city, duly authorized to do so, shall have a right to enter upon the premises of any person at any hour during the daytime to make said inspection. Whenever notice is given by any officer or employe of the city inspecting any premises that said premises need cleaning, the said night soil or other refuse matter shall be removed and the owner or tenant of said premises shall pay the city the price prescribed therefor, and failure to do so shall subject said persons to the penalties to be prescribed by ordinance, and said persons shall be fined, upon conviction in the Corporation Court, in any sum not less than one dollar nor more than two hundred dollars.

Sec. 7. Municipal Service. The City of Dallas shall have power:

1. To buy or construct, own, maintain and operate a system or systems of waterworks, gas or electric lighting plants, telephones, street cars and sewers, or any other public service or enterprise, that may be approved by a majority of the qualified voters of the City of Dallas, voting therefor at any regular election for city officers in accordance with the provisions of this act; and may demand and receive compensation for such service furnished for private purposes, and shall have power to condemn the property of any person, firm or corporation for the purpose of operating and maintaining any such utility, and for distributing such service throughout the city or any portion thereof, but in such condemnation proceedings no allowance shall be made for the value of any franchise and only the actual physical assets shall be purchased by the City of Dallas.

2. To acquire or own within or without the city limits, either by purchase, donation, bequest or otherwise, all property it may need for any municipal purpose, whatever; and all necessary rights of ways thereto, and shall also have the power to sell and dispose of the same, except as otherwise provided in this act.

3. To provide all needful buildings for the use of the city; to provide for enclosing, improving, ornamenting and regulating all public grounds belonging to the city; to provide hospitals and regulate and maintain the same, and to permit or prohibit private hospitals; to establish an active system of inspection over premises and conduct of persons; to establish a reformatory or industrial or truant school for refractory or unprotected boys

and girls under such rules and regulations as the Board of Commissioners may prescribe, and to provide for the issuance of bonds therefor in any sum not to exceed \$25,000 after submission of such matter to a vote of the taxpayers of said city.

4. To lay out, establish, open, alter, widen, lower, raise, extend, grade, narrow, care for, pave, supervise, maintain and improve streets, alleys, sidewalks, squares, parks, public places and bridges, and to vacate and close the same; to sprinkle and care for the streets, and to regulate the use thereof; and to require the removal from the streets and sidewalks of all obstructions, telegraph, telephone, street railway or other poles carrying electric wires, signs, fruit stands, show cases, and encroachments of every character upon said streets and sidewalks; and to vacate and close private ways.

The cost of constructing sidewalks and keeping the same in repair, together with the cost of collection, shall be defrayed entirely by the property owners in such manner as the Board of Commissioners may provide, and shall be a perpetual lien on the property until paid.

5. To prevent any street or sidewalk from being dug up or excavations to be made therein, unless the same be done with the permission of the Board of Commissioners, and under the direction of the City Engineer, or other officer designated by the Board of Commissioners; and to prescribe and exact fees for such privileges, and deposits as guarantees of proper restoration of such street or sidewalks.

6. To regulate, establish and change the grade of all sidewalks, streets and premises, and to require and compel the filling up and raising the same.

7. To permit, prevent and regulate the laying of gas, water and sewer mains and pipes in the city of Dallas; provided, however, that any water or sewer mains or pipes that may be laid in any public street or alley shall thereupon immediately become the property of the city of Dallas. To compel any person using the streets, alleys or sidewalks for the purpose of laying gas or water mains and pipes, sewer pipes, or for building or other purposes, to repair, clean up, and restore said streets, sidewalks and alleys so used.

8. To provide for, establish and maintain a free public library within the city, and to co-operate with any person, firm, or corporation under such terms as the Board of Commissioners may prescribe for the establishment of such free public library, and to that end they shall appropriate annually out of the

general revenue of the city as a fund for the support and maintenance of the Dallas Public Library a sum equal to fifteen one-hundredths of one mill (.00015) of the assessed taxable values of the city for the current year.

9. To establish, buy, erect, maintain, own, lease and regulate wharves and docks, charge wharfage and dockage, to condemn private property for such uses and purposes and to fix places for the anchorage of water craft thereon.

10. To buy, establish, lease, maintain, regulate and operate markets and market places, and abatoirs, and to build, own and maintain buildings therefor, and to rent and lease the same.

11. To establish and maintain sanitary closets for the service of the public, and to obtain by purchase or condemnation property for such closets.

Sec. 8. **Franchises.** 1. The ownership, right of control and use of the streets, highways, alleys, parks, public places and all other real property of the city of Dallas is hereby declared to be inalienable to said city, except by ordinance passed by vote of the majority of the Board of Commisisoners, as hereinafter provided; and no franchise or easement involving the right to use the same, either along, across, over or under the same, shall ever be valid, unless expressly granted and exercised in compliance with the terms hereof, and of the ordinance granting the same. No act or omission of the city, its Board of Commissioners, officers or agents shall be construed to confer or extend by estoppel or indirection, any right, franchise or easement, not expressly granted by ordinance; provided, that alienation of school property shall be as herein elsewhere authorized.

2. The city of Dallas shall have the power, subject to the terms and provisions hereof, by ordinance to confer upon any person or corporation the franchise or right to use the property of the city, as defined in the preceding section, for the purpose of furnishing to the public any general public service, including heat, light, power, telephone service, refrigeration, steam, or the carriage of passengers or freight within the said city and its suburbs, over the streets, highways and property of said city, or for any other purpose whereby a general service is to be furnished to the public for compensation or hire, to be paid to the franchise holder, whereby a right to, in part, appropriate the streets, highways or other property of the city, is necessary or proper, provided, that no franchise shall be granted by said

city to any person, firm or corporation to own, control or operate waterworks therein.

3. No exclusive franchise or privilege shall ever be granted, nor a franchise, nor a privilege to commence, at any time after six months subsequent to the passage of the ordinance granting the same, and no franchise shall be directly or indirectly extended beyond the term originally fixed by the ordinance granting the same, nor shall any franchise be granted to any person or persons or corporation authorizing such person or corporation, their associates, assigns, or successors, to acquire the physical property, rights or franchise of another person or corporation to whom or which a franchise has already been granted by the city whereby the rights and properties held and used under such franchise are assigned to another person, firm or corporation which holds a franchise extending beyond the time of the expiration of the franchise of the person, firm or corporation selling such physical properties, rights or franchises.

4. The city of Dallas shall have the power, by ordinance, to grant any franchise or right mentioned in the preceding sections hereof, which ordinance shall not be passed finally until its third reading, which readings shall be at three separate regular meetings of the Board of Commissioners, the last of which shall take place not less than thirty days from the first. No ordinance granting a franchise shall pass any reading except by vote of the majority of the Board of Commissioners, and such ordinance shall not take effect until sixty days after its adoption and its third and final reading; provided, that if at any time before such ordinance shall finally take effect a petition or petitions shall be presented to the Board of Commissioners signed by five hundred of the bona fide qualified voters of the city, then the Board of Commissioners shall submit the question of the granting of said franchise to a vote of the qualified voters of the city of Dallas at the next succeeding annual election to be held in said city, provided that notice thereof shall be published at least twenty days successively in a daily newspaper published in said city, prior to the holding of said election. Ballots shall be used briefly describing the franchise to be voted on and the terms thereof and containing the words, "For the granting of a franchise," and "Against the granting of a franchise." The vote shall be canvassed by the Board of Commissioners and should it result in a majority of those voting thereon, casting their votes "For the granting of a franchise," then by order entered in their minutes the Board of Commissioners shall so declare, and said franchise shall at once take effect. But should a majority of such votes be cast

"Against granting a franchise," as ascertained by the Board of Commissioners, then said board by order entered in their minutes, shall so declare; and such franchise shall not take effect. In case a franchise is refused by the Board of Commissioners, then the matter may be submitted to the qualified voters on petition, as heretofore provided, and a failure to finally pass on an application within six months after the filing of such application shall be construed as a refusal.

5. No franchise shall ever be granted for a longer term than twenty years, nor shall any right, franchise or privilege now in existence be extended beyond the period now fixed for its termination, directly or indirectly, or through any means whatsoever, and any ordinance or transaction in violation or evasion of this prohibition shall be absolutely void. No subsidiary franchise or franchises of any character appertaining or relating to any other franchise which shall extend beyond the life of such main franchise shall ever be granted to any franchise holder, or to any person, firm or corporation acting for him directly or indirectly, and any such grant in violation of this prohibition shall be absolutely void. No franchise, privilege or easement granted by the City of Dallas shall ever be used or operated so as to extend or enlarge any other franchise or privilege granted by said city, and any violation of this prohibition shall operate as forfeiture of each and all of such franchises, privileges and easements.

6. All persons or corporations to whom franchises may hereafter be granted or their assigns and successors, shall as compensation for the right or privilege enjoyed, pay to the city a sum not less than 4 per cent of the gross receipts of the business pursued by the holder of the franchise; provided that in the event any street railway company in said City of Dallas, Dallas County, Texas, shall hereafter build new lines of street railway, or extend its line of railway therein, this subdivision shall not be construed to require the payment of any such gross receipts tax upon receipts arising from the operation of that part of its mileage and lines which were constructed and in operation before the passage of this act at the regular session of the Thirtieth Legislature of the State of Texas. Provided, further, that whenever any such new franchise shall be granted to any street railway corporation using or holding any other street railway franchise at the time, the Board of Commissioners shall prescribe rules and regulations for determining the amount of receipts arising from the use of such new franchise, and provided that any such new franchise shall never be granted for a period which will extend beyond the life of any street

railway franchise held or used by any street railway company applying for and receiving such new or additional franchise. The amount of said bonus or compensation shall be fixed by ordinance granting the franchise and shall be payable on the second day of January in each year, for the preceding year. Said bonus or compensation shall be exclusive of and in addition to all lawful ad valorem taxes upon the value of the franchise or other property of the holder thereof, and lawful occupation taxes imposed upon the occupation or calling of the holder of such franchise. The Board of Commissioners may, however, in their discretion in the ordinance granting any franchise, provide that no bonus shall be paid for the first three years thereof. In order to ascertain the true amount of such gross receipts and to determine the amount of such bonus or compensation, and for any other purpose relating to the business or affairs of the city, the Board of Commissioners shall have the power to examine or cause to be examined the books, papers and records of franchise holders; to take testimony and compel the attendance of witnesses and the production of books, papers or records, and to examine witnesses under oath, and under such rules and regulations as said board may adopt, and should any franchise holder refuse inspection of his books or the production of the same when lawfully required to do so by said board, or should any officer, agent or employe of said franchise holder refuse to give testimony before said board, then said board shall have power, by ordinance, to declare the franchise or privilege enjoyed by such corporation, or person so in default, annulled and terminated. (Amendment of 1909.)

7. The right is hereby delegated to the city of Dallas, acting through its Board of Commissioners, to determine, fix and regulate the charges, fares or rates of any person, firm or corporation enjoying or that may enjoy a franchise or exercising any other public privilege in said city and to prescribe the kind of service to be furnished by such person, firm or corporation, and the manner in which it shall be rendered, and from time to time to alter or change such rules, regulations and compensation. The board shall make rules and regulations granting a fair hearing to persons or corporations to be affected by said regulations, and no change in regulations shall be adopted except after notice to the persons affected and after a fair hearing shall be granted them; provided, that in adopting such regulations and in fixing or changing such compensation, or determining the reasonableness thereof, no stocks or bonds authorized or issued by any corporation enjoying a franchise shall be considered unless upon proof that the same have been actually issued by the corporation for money paid and used for the de-

velopment of the corporate property, labor done or property actually received in accordance with the laws and Constitution of the State applicable thereto; and in order to ascertain all facts necessary for a proper understanding of what is or should be a reasonable rate or regulation, the Board of Commissioners shall have full power to inspect books and compel attendance of witnesses as provided in sub-section 6 hereof and may prescribe all penalties named in sub-section 6 for a failure or refusal to attend and testify or produce books.

8. Every public service corporation shall furnish and provide equal and uniform service alike to all citizens of the city of Dallas, and it shall be unlawful and a sufficient ground for the forfeiture of any franchise for any such corporation to grant free service, or furnish better service or to furnish service at a lower price or rate, quantity considered, to any person or persons, or otherwise discriminate in the matter of rates or service between citizens of Dallas. Upon proof being received by the Commissioners that this section is being violated, they shall at once summon witnesses and investigate, and if they so find then it shall be their duty to immediately cause suit to be instituted to have such franchise forfeited; provided, however, the Board of Commissioners shall have power by ordinance to grant any such corporation the right to grant reduced rates to persons specified in such ordinance, and provided, that the Board of Commissioners may, by ordinance, authorize any street railway or interurban railway to transport free any member of the police or fire department of said city within the corporate limits thereof, and to authorize the giving of such free transportation in other cases, when the same shall not be in conflict with the general law of the State, which shall control and govern this subdivision.

9. No franchise shall hereafter be granted except upon condition that the city shall have the right at any time after eighteen years from the granting thereof to purchase the physical properties of the franchise holder and to terminate its franchise, and all privileges enjoyed by it thereunder; provided, the majority of the qualified tax paying voters of the city voting thereon shall vote to do so, and provided, that upon the petition of five hundred qualified property tax paying voters to the Commissioners, the matter of the acquisition of such property shall be submitted to an election to be determined by a vote of the majority of the qualified tax paying voters, voting thereon; which election shall be held at the next succeeding election in said city, after at least twenty days notice thereof shall have been published daily for twenty days in a newspaper published in said city, and provided, that the owner of such physical prop-

erty shall be compensated for the value thereof, considering solely the physical assets, such value to be determined by the report of the majority of three arbitrators, one to be selected by the city, one by the owner of the physical property to be valued, and the third by the arbitrators so selected. But if the owner of such physical property shall refuse for thirty days to select an arbitrator, then the value of such property shall be fixed by vote of a majority of the Board of Commissioners.

"Provided, that said purchase, when so made by the city, shall not take effect until the expiration of twenty years from the time of the granting of such franchise."

10. Ordinances granting franchises shall be subject to the terms hereof, and shall contain such terms and conditions as the Board of Commissioners shall see fit to impose. All franchises shall be exercised in accordance with the terms of the ordinance granting the same and of this charter. If such franchises shall not be exercised in substantial accordance with the terms hereof, and of the ordinance granting the same, then after notice to and reasonable hearing of the holders thereof, such franchises may be cancelled or annulled and the Board of Commissioners shall, by ordinance, adopt reasonable rules and regulations for such notice and hearing.

11. It shall be the duty of the Board of Commissioners, as soon as practicable after taking office, to have true copies of all franchises, permits, ordinances, orders, resolutions, or any other proceedings by which any rights, privileges or franchise are granted to any company, corporation or individual owning, or operating any gas, oil, street railway, steam railway, interurban, electric light and power, telephone or any other public utility, which said franchise, etc., shall be codified, indexed and printed and offered for sale at cost price; and all future franchises shall likewise be printed and offered for sale at cost price.

12. Any franchise or right which may hereafter be granted to any person or corporation to operate a street railway within the city or its suburbs shall be subject to the condition that the Board of Commissioners shall have the right to grant to any other person or corporation desiring to build or operate a street railway or interurban railway within or into the city of Dallas, the right to operate its cars over the tracks of said street railway in so far as may be necessary to enter said city and to reach the section thereof used for business purposes; provided that the person or corporation desiring to operate its cars over the lines of said street railway shall first agree in writing with the owner thereof to pay it reasonable compensation for the use of its tracks and facilities. And if the person or corporation de-

siring to use the same cannot agree with said owner of said street railway as to said compensation within sixty days from offering in writing to do so, and as to terms and conditions of the use of said track and facilities, then the Board of Commissioners shall by resolution, after a fair hearing to the parties concerned, fix the terms and conditions of such use and compensation to be paid therefor, which award of the board, when so made, shall be binding on and observed by the parties concerned.

13. Interurban railways are defined to be, in the meaning of this charter, railways operating their cars by electricity for the carriage of freight and passengers for hire, not wholly within the city and its suburbs, but whose lines extend from the city of Dallas and its suburbs to other towns, cities or villages.

14. The Board of Commissioners shall have power, subject to the terms and conditions contained in this charter, to grant to any person or corporation, desiring to extend an interurban railway into the city, the right to lay tracks and operate cars over the streets or other property of the city and over the tracks of other street railways for a term of not exceeding twenty years.

15. The right mentioned in the preceding section shall be granted by ordinance only, which ordinance shall not be finally passed until after three separate readings, the last of which shall take place not less than thirty days from the first. The granting or refusing of the right or franchise herein mentioned shall be subject to the terms and provisions of this charter concerning the submission of general franchises to a vote of the qualified voters of the city, which shall in all things govern and apply thereto.

16. The ordinance granting such right or franchise, shall contain such conditions as may seem proper to the Board of Commissioners, and shall provide for such reasonable compensation to the city as may seem just to the board for the use of the franchise or right granted, which compensation shall be payable annually. And the ordinance granting such right or franchise shall provide that failure to pay said compensation at the time specified therein shall forfeit and terminate said franchise. Said compensation shall be deemed to be a bonus payable to the city for the use and the right granted and shall be exclusive of and in addition to all ad valorem or occupation taxes, payable by the owner of said franchise.

17. The terms of this charter concerning the granting of franchises to persons or corporations for the purpose of ren-

dering any public service wholly within the city and its suburbs shall not apply to interurban railways, except as specified in the four preceding sections and in the various sections providing for the referendum.

18. The Board of Commissioners shall have power to authorize steam railways operating their lines from the city of Dallas to other towns and cities beyond its limits to lay their tracks and establish their switches on and over the streets and other property of the city of Dallas or such parts thereof as the board may see fit, subject to the terms of this charter and to such conditions as may be imposed by the Board of Commissioners.

19. The right mentioned in the preceding section shall be granted only by ordinance, which shall provide for the payment of a reasonable annual compensation, to be paid to the city, which in no case shall be less than ten dollars (\$10.00) per annum, and shall not be construed to be a tax, but shall be in addition to and exclusive of all occupation or ad valorem taxes levied upon the property or franchises of the owner of said rights and upon the occupation pursued by said owner.

20. The compensation mentioned in the preceding section shall be payable annually in advance on the second day of January, and if not then paid the right granted shall forfeit and terminate.

21. The grant or refusal of an ordinance by the Board of Commissioners granting or refusing the right mentioned in the preceding sections shall be subject to the provisions of this charter providing for the submission of the granting or refusal of general franchises to the vote of the qualified voters of the city; provided that an ordinance granting or refusing the right to lay a switch not more than one block in length need not be subject to such vote unless said switch shall cross a street bounding such block.

22. The Board of Commissioners shall have power, by ordinance or resolution, to grant to any owner of property abutting upon the streets or other property of the city the use thereof or to go over or under the same in any manner which may be necessary or proper to the enjoyment of said abutting property by the owner; provided, that such use be not inconsistent with or does not unreasonably impair the public use to which said street or other public property may be dedicated.

The Board of Commissioners shall fix the terms and conditions of any such grant and the time for which the same shall exist. The right is expressly reserved to the city, acting through said board, to terminate such grant when deemed inconsistent with

the public use of the property of the city, or when the same may become a nuisance.

23. For the rights granted under the preceding section the city shall receive annual compensation to be fixed by the Board of Commissioners, not less than five (\$5.00) dollars per annum. Such compensation shall be paid each year in advance on the second day of January. The failure to pay same when due shall operate as an absolute forfeiture of the right granted.

24. No street or other railway shall be authorized by the Board of Commissioners to lay tracks on or occupy the streets or alleys of the city until the owners of a majority of the front feet of property abutting on said street or alleys so to be occupied have, in writing, consented thereto and said consents have been filed with said board; provided, the entire distance of such proposed line of railway shall be considered in determining whether the owners of a majority of the front feet of abutting property have consented thereto, and the majority here required shall be a majority of the front feet of the entire distance of such continuous line, whether occupying one or more streets or alleys; and provided further, that after the consent of any property owner shall be given in writing as herein provided for, he shall not be entitled to withdraw the same within twelve months after giving such consent, nor shall he be entitled to withdraw it thereafter if within such period the applicant for the easement shall file with the city the consents of enough of the property owners interested to authorize the Board of Commissioners to grant such easement.

25. No switch shall be authorized by the Board of Commissioners to be laid in such streets or alleys until the owners of a majority of the front feet of property in front of which said switch is to be laid shall have filed with said board their written consent thereto.

26. The city of Dallas shall have the power, by ordinance or otherwise, to regulate the speed of engines, locomotives and street cars within the limits of said city, and to require steam, interurban and electric railway companies to keep the streets over which they run properly drained and to light same wherever deemed necessary and to require steam, interurban and electric railway companies to construct and keep in repair from curb to curb, bridges and crossings over all the ditches made or crossed by them, and to construct and maintain drains and culverts where crossed by any line of said railways on all streets over which they run; to direct and control the laying and construction of railroad tracks, turnouts and switches and to regulate the grade of same, and to require them to conform to the

grade of the streets of said city as they may hereafter be or are now established, and that said tracks and turnouts and switches be so constructed and laid out as to interfere as little as possible with the ordinary travel in the use of the streets; to require steam railways using any portion of the streets of the city to pay all or any part of the paving, grading, draining and repair thereof along the streets so used by such railway, and to light the same whenever and wherever deemed necessary or advisable; to require any street or electric railway company to pay the cost of the grading, paving, repairing or repaving, or otherwise improving the street or streets or intersections thereof used or occupied by such railway company and such cost shall be a lien upon the property and franchise of the company. The portion of the street occupied by an electric or street company shall be deemed to be the space between its tracks and twenty-four inches on the outside of each of its rails, and all the space between double tracks, turnouts and switches.

Any railroad company, interurban or street railway company proposing, with the permission of the city of Dallas, to occupy any street or streets already occupied by any other such company shall, besides paying for paving as may be required by the city of Dallas or by the provisions of this act, be required also to pay for paving between the tracks of said two roads within twenty-four inches of the track of such other road, and such cost shall be a lien upon the property and franchises of the company; and if the Board of Commissioners shall so direct, said street or electric railway company may be required to pave the street or streets occupied by them from curb to curb.

Should any railroad or street railway company propose to lay a track on any street or portion of a street which shall have been improved under the provisions of this act, it shall become liable for the portion of the cost of such improvement as the commission may direct, or as is fixed by this act.

No railroad or street railway company shall be permitted to occupy any street or portion of a street, improved or otherwise not previously occupied by it, except with the permission of the Board of Commissioners.

The City of Dallas shall have power, by ordinance, to require any street car or electric railway car or electric railway corporation, operating street cars in, into or through the City of Dallas, to issue to its passengers transfers from any of its lines to any other lines within the city, upon the payment by said passenger of the fare or rate prescribed for one continuous passage, whether such line be owned by it or any other company, and in addition to the penalties to be prescribed by ordinance for the failure to give transfers, shall have the right by mandamus or

other proper remedy in any court of competent jurisdiction, to enforce any ordinance requiring the giving of transfers by any street railroad company; and in addition thereto the City of Dallas may recover of the street railway company the sum of twenty-five dollars as penalty and liquidated damages for each and every failure to give a transfer.

It shall be unlawful to grant, to continue, amend or extend any street railway franchise without binding any such railroad to give universal transfers, under provisions now fixed or hereafter to be fixed by general ordinance.

26a. All persons or corporations now operating or hereafter operating within the corporate limits of the city of Dallas, any interurban electric railway line, either on their own or other street railway tracks, shall be required to give reasonable local passenger service thereon within the corporate limits of the city of Dallas between all points on said interurban line or lines for a fare not exceeding five cents, and to that end shall be required to stop passenger cars so operated by them at all street crossings in said city, to take on and let off local passengers, provided that this shall not apply to any portion of such interurban lines where local service is furnished by local cars to the same extent as is required under the foregoing provisions hereof.

26b. Any person, persons or corporation operating an interurban electric railway line within the corporate limits of the City of Dallas, who shall violate any of the provisions of the foregoing subdivision shall be liable to the City of Dallas, for a penalty of not less than \$100.00 nor more than \$500.00 for each offense, and which penalties shall be recovered and suit therefor shall be brought in the name of the City of Dallas, in any court of proper jurisdiction in Dallas County, by the City Attorney of said City of Dallas, Texas, or under his direction.

27. The City of Dallas shall have the power, by ordinance, to fix and regulate the price of water, gas and electric lights, and to regulate and fix the fares, tolls and charges of local telephones and exchanges; of public carriers and hacks, whether transporting passengers, freight or baggage, and generally to fix and regulate the rates, tolls or charges, and the kind of service of all public utilities of every kind.

28. The City of Dallas shall have power to direct and control the laying and construction of railroad tracks, turnouts and switches and to require that they shall be so constructed and laid as to interfere as little as possible with the ordinary travel and use of the streets, and to require that they be kept in repair, to regulate and control the location of cable and other street and railroad tracks and all steam railroad tracks, and to

require railway companies of all kinds to construct at their own expense such bridges, viaducts, turnouts, culverts, crossings and other things, as the Board of Commissioners may deem necessary; to regulate the speed of all railroad trains and street cars and interurban railways within the city limits and their stops at street crossings and to require railroad and street car companies and interurban railways to keep the streets through which they run, in repair, and to require all railroad companies and street railway and interurban companies to light the streets over or across which street railway, interurban or railroad cars are operated, whenever deemed necessary and to prescribe the kind of light to be used, and to levy special taxes or assessments upon them for street improvements the same as against property owners; to require all railroad companies, street railway companies or interurban railway companies to maintain gates or watchmen at street crossings when ordered by the Board of Commissioners.

29. To prevent and regulate the running of horse railway cars, or cars propelled by dummy engines or other power, the laying down tracks for same, the transportation of passengers thereon, the form of rail to be used, and everything used, and everything else concerning street railways and to levy special taxes or assessments against such roads for street improvement, the same as against the property owner.

30. The Board of Commissioners shall have the power to require any corporation holding a franchise from the city to allow the use of its tracks, poles and wire by any other corporation to which the city shall grant a franchise, upon the payment of a reasonable rental therefor to be fixed by the Board of Commissioners.

31. Corporations enjoying franchises now or hereafter from the City of Dallas shall not be permitted to issue stocks or bonds, except for money paid, labor done, or property actually received.

32. In the event of the issuance of such stock or bonds the same shall not be issued either as to stock or bonds in excess of the money actually paid, or in excess of the reasonable value of the labor actually done, or property actually received.

33. Any stock or bonds issued in contravention of the provisions of this article shall be void.

34. Whenever any corporation enjoying a franchise from the City of Dallas shall desire to issue any stock or bonds, it shall file with the City Secretary a statement showing the amount of said stock or bonds proposed to be issued.

35. Whenever any corporation enjoying a franchise from the City of Dallas may desire to issue any stock or bonds subsequent to its organization, it shall file with the City Secretary a statement showing the amount of such stock and the amount of such bonds proposed to be issued, and showing the purpose for which the same are to be issued.

36. Upon application made, and after thirty days public notice thereof, the legislative authority of the City of Dallas, upon showing that the necessary interests of the corporations require it, and that such interests are not in conflict with the public interests, may authorize a corporation enjoying a franchise from the City of Dallas to issue stocks and bonds with the restrictions herein imposed, provided, that the same shall be subject to the provisions of subdivisions 32 and 33 of this article, and provided further, that such authority shall never be given for the issuance of funding bonds to replace other bonds in excess of the amounts to which such bonds would be limited by the provisions of said subdivisions.

37. Every corporation holding a franchise or enjoying an easement of any sort through, under or from the City of Dallas, shall be required to prepare and file annually with the Board of Commissioners, within sixty days after the close of the fiscal year of such corporation, a true, full and correct statement, based upon its condition at the close of such fiscal year and its transactions for the current year which shall exhibit

(a) The amount of all stock issues of such corporation, and the divisions thereof.

(b) An itemized statement of the indebtedness of such corporation, its nature and division, whether floating or bonded, and the interest payable on each item thereof.

(c) An itemized statement of the income of such corporation and the amounts derived from each source of income.

(d) An itemized and detailed statement of the expenditures of such corporation.

(e) An itemized statement of all property of every kind owned by said corporation, wherever situate and the location and fair market value of each item thereof.

(f) Said annual statement shall be verified by oath of a duly authorized officer or agent of such corporation, and shall be spread upon the minutes of the Board of Commissioners.

If any person signing such annual report shall wilfully make a false representation therein, he shall be guilty of perjury, and punished therefor as provided by law.

If any corporation required to file such report shall fail so to do as herein provided, it shall be the duty of the City Attorney, after due notice to such corporation of such intention, to bring a suit in the district court to forfeit the franchise granted by the city to such corporation, and if it shall appear to the court that such corporation has wilfully failed to make such report, it shall render judgment in said cause decreeing a forfeiture of such franchise and of all rights accruing thereunder to said corporation.

ARTICLE III.

The Board of Commissioners.

1. All powers conferred on the city shall, unless otherwise provided in this charter, be exercised by a Mayor and four Commissioners, who together shall be known and designated as the Board of Commissioners, all of whom shall be elected by the qualified voters of the city at large and shall devote their entire time to the service of the city.

The Mayor shall be ex-officio president of said Board of Commissioners, and shall have and exercise all of the powers of a member thereof.

2. On the sixth Tuesday after this act shall take effect, and biennially thereafter on the first Tuesday of April, there shall be elected at an election to be held in said City of Dallas, to be called as hereinafter provided, a Mayor and four Commissioners, who together shall compose said Board of Commissioners, and who shall serve for the term of two years and until their successors shall be elected and shall qualify. Candidates for Mayor and for places on said Board of Commissioners shall be voted for separately, and candidates for Commissioner shall be designated on the official ballot as candidate for Commissioner No. 1, or No. 2, or No. 3, or No. 4 (said numbers to be printed after the designating title "Commissioner"), in accordance with the written requests which said candidate shall file with the City Secretary. Each candidate for Commissioner shall designate in the announcement of his candidacy, and in his request to have his name placed on the official ballot, the number of the place on the Board of Commissioners for which he desires to become a candidate, and such request to be placed on the official ballot shall be filed in writing with the City Secretary at least ten days before such election shall be held. The City Secretary shall prepare an official ballot in accordance with such requests and with the provisions hereof, and only such ballot shall be used at said city election. The candidate at said election for Mayor or for a place on said Board of Commissioners who shall receive a ma-

jority of all the votes cast for the office for which he is a candidate shall be declared elected to such office. In the event any candidate for either of said offices fail to receive a majority of all votes cast for all the candidates for such office at such election, the Mayor of said city shall, on the first day following the completion of the official count of the ballots cast at said first election, issue a call for a second election to be held in said city on the second Tuesday following the issuance of such call, at which said election the two candidates receiving the highest number of votes for any such office to which no one was elected at said first election by receiving a majority of all votes cast thereon, shall be again voted for. The official ballot to be used at said second election shall be prepared by the City Secretary and the name of no person shall appear thereon unless he was a candidate for the office designated at said first election, and the two persons receiving at said first election the first and second highest number of votes cast for candidates for such office shall be entitled to have their names printed on said official ballot, in the order of their standing in the computation of the votes cast at said first election, as candidates at said second election for such office; provided, that in the event any person who was a candidate at said first election and who shall be entitled to become a candidate at said second election shall fail to request that his name shall appear on the official ballot therefor, as herein provided, the candidate for such office standing next in the computation of votes shall succeed to his rights with respect thereto; provided, further, that two candidates for such office at said first election shall be entitled to become candidates therefor at said second election, which two candidates shall be those two among such candidates as shall stand highest, respectively, in the computation of votes cast for such of said candidates at said first election as shall file written requests to be placed on the official ballot as candidates for such office at said second election. In the event of a tie in the vote for the two leading candidates for any office at said first election, said office shall be filled at a second election, as herein provided for, at which such candidates, so tied in said first election, may again become candidates. In the event they, or either of them, shall fail so to do, the two candidates for such office who lead in the computation of votes therefor and who desire to become candidates therefor at said second election, shall be entitled so to do, in the order of their respective votes at said first election.

In the event of a tie between the two candidates for any office at said second election they shall cast lots to determine who shall be elected thereto.

3. In case a primary election is held pursuant to the call or

under the direction of any political party, or of any association of individuals for the nomination of candidates for the offices of Mayor and Commissioners, the candidates or persons voted for in said primary election shall be voted for at large by all of the legally qualified voters in said city and upon the same plan and under the same system as provided for in the preceding section, it being the purpose of this act to nominate and elect at large in said city the Mayor and Commissioners, without restricting the nomination of candidates for either position to any smaller designated territory within the limits of said city. A candidate for any such office who shall fail to receive in any primary election a majority of all the votes cast for all candidates for such office shall not be entitled to have his name placed on the official ballot as a candidate for such office at the regular election. Any primary election held to select a candidate or candidates for Mayor and for members of said Board of Commissioners which is not conducted under the majority rule system provided for in Section 2 shall be illegal and void, and the nominees thereof shall not be entitled to have their names placed on the official ballot to be used in the regular election.

Independent candidates for Mayor or for positions on said Board of Commissioners shall be entitled to have their names placed on the official ballot to be used in the regular election by filing with the City Secretary, not less than ten days before such election, a written petition therefor, which shall be signed by such candidate and by at least one hundred qualified voters of said city.

4. Any primary election and all regular and special elections held in and for said city shall be governed in all respects by the general election laws of the State, except as herein specially provided.

5. Each member of the Board of Commissioners, shall, in addition to the other qualifications prescribed by law, be at the date of his election a qualified voter of the City of Dallas, and shall not be in arrears in the payment of any taxes or other liabilities due the city.

6. The Mayor shall be a member of the Board of Commissioners with all the rights, powers and duties appertaining thereto. He shall be the chief executive officer of said city, and shall see that all the laws thereof are enforced. It shall be his special duty to see that the conditions of all franchises granted by the city are faithfully complied with, and that all contracts made with the city are faithfully executed. He shall nominate all appointive officers of the city except Auditor, and such nominations shall be subject to confirmation by the Board

of Commissioners, by a majority vote thereof. The Mayor shall not be entitled to vote as a member of said board upon the question of the confirmation of any nomination for office so made by him, but shall be entitled to vote upon all other questions that may be submitted to or acted upon by said board. The officers to be thus nominated by the Mayor and confirmed by the Board of Commissioners shall be all officers whose powers, or duties or salaries are prescribed and defined by ordinance of said city. The salary of the Mayor shall be four thousand (\$4,000) dollars per year, payable in equal monthly installments.

The Board of Commissioners shall at the beginning of their terms of office elect by ballot, by a majority vote of all the members thereof, one of their number to act as Mayor pro tem, and the Commissioner so chosen shall be invested with all the powers, and shall perform all the duties of the Mayor, during his absence or sickness.

7. In case of the death, resignation or permanent disability of the Mayor, or whenever a vacancy in the office of the Mayor shall occur for any reason, the Mayor pro tem shall act as Mayor, and shall possess all the rights and powers of the Mayor, and perform all of the duties and receive his salary under the official title, however, of "Mayor pro tem," until an election is ordered by the Board of Commissioners to fill the vacancy in the office of the Mayor. Said election, should a vacancy occur in the office of Mayor, shall be called by the Board of Commissioners and held within thirty days thereafter, and notice by publication given for at least twenty days, as may be required by law; provided, that in the event such vacancy should occur within ninety days of the next regular election to be held either for members of the Board of Education or for members of the Board of Commissioners said election for Mayor shall be held at said next regular election.

8. The Board of Commissioners, at their first meeting after election, or as soon thereafter as may be practicable, shall, by a majority vote, designate from among their members one Commissioner who shall be known as "Police and Fire Commissioner," and who shall have under his special charge the enforcement of all police regulations of said city, and general supervision over the fire department thereof; one Commissioner to be known as the Commissioner of "Streets and Public Property," who, except as herein otherwise provided, shall have under his special charge the supervision of the streets, alleys, public grounds and other property of said city, and be charged with the duty of lighting the streets and keeping the streets,

alleys, public grounds and property in a clean and sanitary condition and with the enforcement of all rules and regulations necessary to these ends, and who shall also have under his special charge the supervision of all public improvements, except as herein otherwise provided, and shall see that all contracts therefor are faithfully complied with; and one Commissioner to be known as the "Waterworks and Sewerage Commissioner," who shall have under his special charge the construction, maintenance and operation of the waterworks, sewer system and departments of said city, and shall see to the enforcement of all regulations with respect to said department and with respect to all the revenues pertaining thereto; and one Commissioner who shall be known as the "Commissioner of Finance and Revenue," who shall have under his special charge the enforcement of all laws for the assessment and collection of taxes of every kind and collection of all revenues belonging to said city from whatever source the same may be derived, and who shall also examine into and keep informed as to the finances of such city. It is expressly provided that the number by which a Commissioner was designated upon the official ballot shall bear no relation to and shall in no manner be considered in the determination of the particular position or office to be assigned to any Commissioner. Said Commissioners shall perform all of the executive duties of the respective departments to which they may be assigned, as above provided, but said board, as a whole, shall have supervision of and be responsible for the administration of each of said departments. The salary of each of said Commissioners shall be three thousand dollars per year, payable in monthly installments.

9. The Commissioners named as the head of each department shall audit all accounts or claims against it, unless he be absent or fail or refuse so to do, in which event the Mayor shall appoint another Commissioner to act in his stead during his absence, or to audit such claims and accounts as the said Commissioner shall fail or refuse to act upon; but before payment all accounts shall be acted upon and approved by said Board of Commissioners at a meeting of said board. Said board shall require a statement to be published monthly in the official newspaper of said city showing a full, clear and complete statement of all taxes and other revenue collected and expended during the preceding month, indicating the respective sources from which the moneys were derived and also indicating the disposition made thereof, and showing all disbursements during said period.

10. The Mayor and each member of the Board of Commis-

sioners shall be required to give bond in the sum of ten thousand dollars for the faithful discharge of his duties.

11. The Board of Commissioners shall be vested with the power and charged with the duty of adopting all laws and ordinances not inconsistent with the Constitution and laws of this State touching every object, matter and subject within the purview of the local government instituted by this act.

12. Every ordinance, resolution or motion of the Board of Commissioners shall, before it takes effect, be presented to the Mayor for his approval and signature. If he approve it, he shall sign it; if he disapproves it, he shall specify his objection thereto in writing within two days and return the same to the Board of Commissioners with such disapproval. If he does not return it with such disapproval, nor sign it, it shall, after two days be in effect and force, as if he had approved it.

A veto by the Mayor shall suspend the act of the Board of Commissioners for seven days, after which time the Board of Commissioners may pass the same over the veto of the Mayor by a majority vote, but in all such cases the Mayor shall not be deprived of his right to vote as a member of the Board of Commissioners by reason of such veto. In case the Mayor's veto is sustained, the matter shall not again come before the Board of Commissioners within six months. In ordinances or resolutions making appropriations, the Mayor may veto any or every item therein, but such veto shall not extend to the items not vetoed, and those which he approves shall become effective and those which he disapproves shall not become effective, unless passed over his veto in the manner above specified.

13. The Board of Commissioners shall have control and supervision over all the departments of the city, except as herein otherwise provided, and to that end shall have power to make and enforce such rules and regulations as they may see fit and proper for and concerning the organization, management and operation of all the departments of said city and whatever agencies may be created for the administration of its affairs. They shall have power to create such offices as they may deem necessary for a prudent and successful administration of the affairs of the city, and to fix the salaries of the persons appointed thereto; provided, that the term of any such office so created by them shall never exceed the period of one year, and they shall have power to abolish at any time any such office and to terminate the official duties and relations of the person occupying the same. The Mayor shall propose and submit to the Board of Commissioners nominations for all of-

fices created by said board, and said nominations shall be subject to confirmation by a majority vote of the board, not including the vote of the Mayor. In the event any such nomination by the Mayor shall fail of confirmation by the board, it shall be the duty of the Mayor to make a temporary appointment of an officer pro tem to discharge the duties of said position, who shall not have been rejected by the board as a nominee of the Mayor for said office, and to submit another nomination to the Board of Commissioners, and to continue to so submit other nominations until one shall be ratified and confirmed by said board.

Each member of the Board of Commissioners shall have the right to propose and name the employes in the department or departments under his immediate supervision, but a majority of the board shall have the power to reject any such proposal and to discharge any officer or employe of the city except the City Attorney, Corporation Judge and Auditor. All salaries and wages to be paid employes of the city, except as otherwise provided herein, shall be fixed and paid by the Board of Commissioners, acting as a whole, and shall not become effective unless at least three members of the board shall vote therefor.

14. The Board of Commissioners shall meet at least three times in every week in regular meeting at such times as shall be fixed by said board, at the city hall in said city, to consider and take under advisement and act upon such business as may come before them. A majority of said board shall constitute a quorum for the transaction of all business, but no action of said Commissioners shall be effective unless upon a vote of the majority of such quorum, and no ordinance shall be passed or become effective without receiving the votes of at least three members of the board. No final action shall be taken in any matter concerning the special department of any absent Commissioner unless such business has been made a special order of the day by action at a previous meeting of the board, or such action is taken at a regular meeting of the board. Special meetings may be called by the Mayor or by any two members of said board at any time to consider only such matters as shall be mentioned in the call for said meeting, and written notice thereof shall be given to each member of said board. All sessions of said board, whether regular or called, shall be open to the public.

15. It shall be the duty of the Mayor, from time to time, to make such recommendations to the Board of Commissioners as he may deem to be for the welfare of the city, and on the first Monday in May of each year, or as soon thereafter as practicable, to submit to the Board of Commissioners the annual

budget or estimate of the receipts and expenses of the city for the fiscal year, each item in which may be increased, reduced or omitted by the board, subject to the veto power of the Mayor.

16. It shall be the duty of the Board of Commissioners, on the second Monday in May, or as soon thereafter as practicable, to appropriate such sums of money, respectively, for each of the various departments of the city government as it may deem necessary for the maintenance and operation thereof during the current year. The current fiscal year shall begin at 12:01 o'clock, noon, on the first day of May of each year.

In addition to the departmental appropriations herein provided for, the Board of Commissioners shall also make such appropriations for contingent purposes, as may be deemed necessary.

The appropriations herein provided for shall be based upon estimates submitted by the Mayor in his annual budget, provided the same shall have been submitted to the board as herein provided.

The head of each department created by the Board of Commissioners shall make a written report to the Mayor, not later than the 5th day of May in each and every year, showing the operation of such department for the preceding year. These reports shall be transmitted to the Mayor and shall accompany and be made a part of the Mayor's report to the Board of Commissioners, which report shall not be made later than the second Monday in May in each year.

The Mayor shall also make such recommendations to the Board of Commissioners concerning the increase or decrease of departmental estimates as in his judgment may best serve the interests of the city. He shall also submit an estimate for a special contingent fund for the current year.

In making up the budget allowance for any current year, the Board of Commissioners shall first make provisions for the payment of the interest and the creation, setting aside and preservation of a legal sinking fund upon all of the outstanding indebtedness of the city, and make provision for the maintenance of the public school system of the city as herein elsewhere provided, and shall then make such appropriations as the remaining revenues of the city may justify, to be appropriated among the respective departments, or otherwise appropriated for public uses, as the Board of Commissioners may deem best; provided, however, that in no case shall the entire appropriations so made, comprehending interest and sinking fund on the bonded debt, and appropriations for all other public uses and

purposes, ever exceed the estimated available resources, which shall be based upon the probable revenue of the city derived from ad valorem taxes upon the basis of the total valuation of the property for taxation for the preceding year, and of such other contingent revenues of the city as will probably accrue.

It shall be deemed a malfeasance for the Board of Commissioners to make an appropriation in the budget, the sum total of which shall exceed the estimated available or probable revenues for any current fiscal year.

17. The Board of Commissioners at its second regular meeting in June of each year, or as soon thereafter as practicable, shall levy the annual tax for such year, but special taxes or assessments allowed by this charter may be levied, assessed and collected at such times as the Board of Commissioners in each case may provide.

18. The Board of Commissioners shall have full power to provide, by ordinance, for the prompt collection of taxes assessed, levied, and imposed under this charter, and are hereby authorized, and to that end may and shall have full power and authority to sell or cause to be sold all kinds of property, real and personal, and may and shall make such rules and regulations, and ordain and pass all ordinances deemed necessary to the levying, laying, imposing, assessing and collecting of any taxes provided for in this charter. Unless otherwise provided by this act and by ordinances passed thereunder, all property in such city liable to taxation shall be assessed in accordance with the provisions of general laws of the State, in so far as applicable.

19. The Board of Commissioners shall have the management and control of the finances of the city except as otherwise herein provided. They shall have the power to appropriate money and provide for the payment of debts and expenses of the city; to provide by ordinance special funds for special purposes provided for under the provisions of this charter, and to make the same disbursable only for said purposes, and to impose proper penalties for enforcing the same; to provide by ordinance for the payment of any existing and outstanding indebtedness and for the payment of any bonds that may from time to time, be issued, and shall for such purposes have the power to levy, assess and collect a special tax.

20. The Board of Commissioners shall have the power to fund or refund by ordinance the whole or any part of the existing debts of the city, or any future debt by acquiring and canceling the evidence thereof and to issue other bonds in lieu

thereof, either registered or coupon, bearing interest at a rate not greater than the original indebtedness, and to this end may apply the sinking fund belonging to any series of bonds so refunded, and may pay and retire any bond by using the sinking fund thereof.

21. Neither the Mayor nor any other member of the Board of Commissioners, nor any elective or appointive employe of the city, shall be directly or indirectly in the employ of any person, company, or corporation holding or seeking to hold any franchise of the City of Dallas, or shall receive, directly or indirectly, any wage, commission, fee, gift, favor or payment from any such franchise holder, and a violation of this section shall ipso facto render vacant the position held by the person so violating it, and shall be punished as bribery.

No member of the Board of Commissioners or Board of Education or any other officer of the city shall be directly or indirectly interested in any work, business or contract, the expense, price or consideration of which is paid from the City Treasury, or by any assessment levied by ordinance or resolution of the Board of Commissioners; nor be the surety of any person having any contract work or business with said city for the performance of which security may be required, nor be the surety on the official bond of any officer of the city. Contracts in violation of said provision shall be void and no member of the Board of Education shall be at any time during his term of office directly or indirectly interested in or in the employ of any school book publishing or furnishing company or concern or school furniture company or concern.

22. The Board of Commissioners shall by ordinance adopt such rules and regulations for its government and order of business as its members may deem best. It shall be the judge of the qualifications and election of its members, including the Mayor, and shall have authority to recount the votes cast for either of its members, and to correct the result which may have been theretofore declared, in the event notice of a contest of any such election shall be given within thirty days after such election shall have been held. It shall also be the judge of the election and qualification of all other city officers subject to the provisions of this act applying thereto. It may punish members, or other persons, during its sitting by fine for disorderly conduct.

23. Each Commissioner and the secretary of the Board of Commissioners shall be, and they are hereby authorized to administer oaths in the municipal affairs and government of the city.

24. If a vacancy shall occur in the Board of Commissioners (excepting the Mayor) or the office of City Attorney or Corporation Judge, the Mayor shall nominate a person to fill the unexpired term of such office, and submit his name to the Board of Commissioners. If such nomination shall receive the approval of three members of the board, not including the Mayor, said appointment shall take effect from the date of such confirmation. In the event said board shall fail or refuse to confirm such nomination, the Mayor shall submit another nomination of a different person for said office, and shall continue so to do until a nomination so made by him shall be confirmed by the Board of Commissioners. In the event of a vacancy in the office of City Attorney, or Judge of the corporation court, which shall not be promptly filled as above provided, it shall be the duty of the Mayor to appoint an officer pro tem to perform the duties of such vacated office, which said pro tem officer shall be entitled to receive the regular salary for said services for the time he shall perform them, and shall serve in said capacity, until said office shall be filled in accordance with this act.

In the event a vacancy shall occur in the office of Auditor it shall be the duty of the nominating board created under the provisions of this act to convene and make a nomination or nominations for said office until the same shall be filled in accordance with said provisions.

ARTICLE IV.

Other Officers and Their Duties.

The Mayor shall on the second Tuesday in April, 1908, and on the fourth Tuesday in April, 1909, and biennially thereafter, submit to the Board of Commissioners a nomination for the office of City Attorney, and said board shall confirm or reject such nomination by a majority vote thereof, not including the Mayor. The votes of three members of said board shall be sufficient to confirm or to reject such nomination and in the event such nomination shall be rejected, it shall be the duty of the Mayor to submit the name of a different person to the Board of Commissioners as nominee for said office and he shall continue so to do until a nomination so made by him shall be confirmed by said board.

The City Attorney shall receive such salary as shall be fixed by the Board of Commissioners at the beginning of his term and said compensation shall not be increased or diminished during his term of office. The City Attorney chosen in 1908 shall serve until his successor shall be chosen as herein provided and shall qualify. Said officer shall represent the city in

all litigation and controversies. The Board of Commissioners shall be empowered at its discretion to employ an assistant or assistants for said officer, and to fix the compensation to be paid for such service, and such City Attorney and his assistants shall have authority to administer oaths and affidavits. It shall be the duty of the City Attorney to approve in writing all proposed ordinances before they shall be adopted, or to file with the Board of Commissioners in writing his objections thereto. It shall be his duty to draft all proposed ordinances granting franchises, and in the event he shall not approve any such proposed ordinance, it shall be his duty to file with the Board of Commissioners, in writing, his objections thereto. It shall be the duty of said officer to inspect and pass upon all papers, documents, contracts and other instruments in which the city may be interested. He shall be the legal adviser of the Mayor, the Board of Commissioners and Board of Education, or any committee thereof, and all city officers and employes with respect to any legal question involving an official duty or any matter pertaining to the affairs of the City of Dallas. The City Attorney shall perform such other duties as the Board of Commissioners may direct. Whenever it shall be brought to the knowledge of the City Attorney, through the affidavit of ten creditable persons or otherwise, that any person, firm or corporation exercising and enjoying any franchise or privilege from the City of Dallas has been guilty of a breach of any condition of such grant, or has failed to comply in any material matter with the terms and stipulations thereof, it shall be the duty of said officer to make report of said matter to the Board of Commissioners, together with all facts bearing upon the same which may be brought to his attention. If said board shall determine that said complaints are well founded, it shall be its duty to take such action as may be necessary; and in the event the offending corporation shall fail or refuse to conform to such orders as it may make with respect thereto, it shall be the duty of the board to direct the City Attorney to institute suit in the court having jurisdiction thereof against such person, firm or corporation so offending to obtain a judgment of forfeiture of said franchise or privilege.

2. There shall be a court for the trial of misdemeanor offenses known as the "Corporation Court," with such powers and duties as are defined and prescribed in an act of the Legislature of the State of Texas, and any acts amendatory thereof, entitled, "An Act to establish and create in each of the cities, towns and villages of this State, a State court, to be known as the 'Corporation Court' in each city, town or village, and to prescribe the jurisdiction and organization thereof, and to abolish

'municipal courts;'" said act having been presented to the Governor of Texas March 15, 1899, and not having been by him disapproved.

The Magistrate of said court shall be known as the "Judge of the Corporation Court," he shall be a qualified voter of the City of Dallas, shall be appointed by the Mayor and confirmed by the Board of Commissioners, shall hold his office for two years, unless sooner removed by impeachment, and shall receive such salary as may be fixed by the Board of Commissioners, which salary shall not be increased or diminished during his term of office. There shall be a clerk or clerks of said court, and such deputies as may be created or provided for by ordinance adopted by the Commissioners, which deputies shall be appointed by the Mayor and confirmed by the Board of Commissioners, shall be subject to removal at any time by the Board of Commissioners, and shall receive such salary as may be fixed by the Board of Commissioners.

The clerk or clerks of said court and the deputies thereof shall have the power to administer oaths and affidavits, make certificates, affix the seal of said court thereto, and generally to do and perform all things and acts usually or necessary to be performed by clerks of courts in issuing process of said courts and conducting the business thereof.

The Board of Commissioners may require such clerk, clerks or deputies created by it to perform such other duties, in addition to the duties of clerk or deputy clerk, as may be prescribed, or may provide that some other employe or employes of the city, in addition to other duties, may perform the duties of such clerk or deputy clerk, without extra compensation.

The Mayor shall within fifteen days after his election and qualification for the years 1908 and 1909, and biennially thereafter, nominate and submit to the Board of Commissioners for confirmation, the name of a person proposed by him for the office of Judge of said corporation court. Said officer shall be a regularly licensed and practicing attorney and a qualified voter of the City of Dallas, and shall have resided in said city at least three years before said appointment. He shall receive for his services such compensation as may be fixed by the Board of Commissioners and such compensation shall not be changed during his term of office.

If the Board of Commissioners should fail or refuse to confirm any nomination for judge of the corporation court, it shall be the duty of the Mayor to submit another nomination for such office and to continue so to do until a nomination shall be confirmed. The Mayor shall have authority to make a temporary appointment to fill a vacancy in said office, to continue until an

appointment thereto made and submitted by him to the Board of Commissioners shall be confirmed thereby, which said temporary appointee shall not have been theretofore rejected by the Board of Commissioners as a nominee for said office.

3. The presidents of the several banks situated in the City of Dallas, incorporated under any act of Congress or the laws of the State of Texas, and in existence at the time this act shall take effect, and their successors in said offices, who shall qualify by taking the oath of office prescribed by the Constitution of the State of Texas, shall be and are hereby constituted a nominating board, which shall be empowered, by a majority vote of the acting members of said board, to nominate an Auditor for the City of Dallas. Said board shall meet within fifteen days after the first day of April of the year 1908, and shall organize by electing a president and secretary from its own members. Three members shall be sufficient to constitute a quorum. Said board shall then proceed to select, by ballot, a nominee for Auditor, and shall certify such action to the Board of Commissioners. It shall be the duty of said board, immediately on receipt of such certificate from said nominating board, to convene and to confirm or reject such nomination. If three members of said board shall vote to confirm such nomination, it shall be confirmed, and if three members of the board shall vote to reject the same, it shall be rejected, and in such event, the board shall certify its action to said nominating board, which shall then propose the name of a different person for said office, to be selected by it as hereinafter provided, and shall thus continue to make nominations for said office until a person thus nominated shall be confirmed by the Board of Commissioners. In the event the Board of Commissioners should fail or refuse to confirm the first nomination made by said nominating board, it shall be the duty of such nominating board to designate an Auditor pro tem, who shall be empowered to perform all the duties of Auditor and shall receive the salary of said officer until said office shall finally be filled by confirmation, by the Board of Commissioners, of a nomination made by said nominating board in accordance with the provisions of this section. The person thus nominated and confirmed as Auditor in the year 1908, shall serve in said capacity until the 15th day of April, 1909, and until his successor shall be chosen and shall qualify. Within fifteen days after the first day of April, 1909, and biennially thereafter, said nominating board shall meet and propose a nomination for said office, and the same shall be acted on by the Board of Commissioners chosen during said month as herein provided; said officer chosen in the year 1909, and thereafter, shall serve for the term of

two years and until his successor shall be chosen and shall qualify.

It shall be the duty of the Auditor to examine in detail all bills, accounts and claims against the said city, and if found correct, to sign his name in approval thereof, but if found incorrect he shall return them to the party presenting the same for correction. He shall be the general accountant of the said city, and shall keep in books regular accounts of all real, personal and mixed property of the said city; of all receipts and disbursements of money; and under proper heads, separately, each source of receipt and the cause of each disbursement; and shall also keep an account with each person, including the officers, who have money transactions with the said city, crediting amounts allowed by proper authority, and specifying the particular transaction to which such entries apply. It shall be his duty at least once in each month to examine the books of account of all officers of said city charged with the receipt and disbursement of money, and if they be found incorrect, to at once make a report in writing of the same to the Mayor. It shall also be his duty to examine all warrants and countersign the same after appropriation has been duly made to pay the same by said Board of Commissioners. He shall certify to the correctness of all monthly reports which shall be published by the Board of Commissioners as required by Article 3 hereof. It shall be his duty to ascertain whether any expenditure made or proposed to be made by the city is excessive, either in the price of the thing purchased, the computation of the charge or otherwise, and if he shall so find, he shall make report thereon to the Board of Commissioners and state the facts in his certificate to be attached to the monthly report to be published as herein provided for. He shall receive for his services a salary of three thousand dollars (\$3000) per annum, payable in equal monthly installments, and shall give bond for the faithful performance of his duties in the sum of ten thousand dollars (\$10,000), with two or more good and sufficient sureties, to be approved by the Mayor and by the Commissioner of Finance and Revenue.

5. The City Attorney, Judge of the Corporation Court and Auditor, shall each serve for the period of two years; provided, the appointments thereto made in the year 1908, shall run for the period of only one year and until the successors of such officers shall be chosen. The City Attorney and Judge of the corporation court shall receive such compensation as may be fixed by the Board of Commissioners at the beginning of their terms, and such compensation shall not be increased or diminished during such terms.

6. The City Attorney, Judge of the Corporation Court and Auditor shall not be subject to removal from office by the Board of Commissioners, but such above named officers and Mayor and each member of the Board of Commissioners may be removed by impeachment in the manner provided by general law for the impeachment of county officers.

7. The Board of Commissioners shall have power to provide for such other officers and employes as may be necessary, to fix the compensation to be paid thereto, and to employ such service and to make such compensation therefor as may seem expedient and necessary to the board; provided, that a majority thereof shall approve such action, and provided further, that all officers other than those specially mentioned herein shall hold their offices for a term of not exceeding one year, and shall be subject to removal at any time by the Board of Commissioners.

8. The office of City Treasurer shall be let by contract to the highest and best bidder in the discretion of the Board of Commissioners. The Board of Commissioners shall, not less than thirty days prior to the expiration of the term of office of the present City Treasurer, and every two years thereafter, advertise for bids for the said office, stating what said bids shall specify and the terms on which such bids shall be received. The Treasurer appointed by contract shall nevertheless be an officer of the city and subject to the same duties as a Treasurer otherwise elected. Said Treasurer shall give such bond as the Board of Commissioners may require, conditioned for the faithful discharge of his duties. He shall receive and securely keep all moneys belonging to the city, and make all payments for the same upon an order signed by the Mayor and countersigned by the Auditor, except that payments from the school funds shall be upon an order signed by the president of the Board of Education, countersigned by the Auditor and attested by the secretary of said board; provided, that no order shall be paid unless it shows upon its face that the Board of Commissioners or Board of Education, as the case may be, has ordered its issuance, and for what purpose. He shall render a full and correct statement of his receipts and payments to the Board of Commissioners at their first regular meeting in every month, and at such other time as the Board of Commissioners may require. He shall perform such other acts and duties as the Board of Commissioners may require, and shall receive for his services five (\$5) dollars per annum.

ARTICLE V.
Public Schools.

1. The city public schools shall be under the management and control of a Board of Education, composed of a president and six members, who shall be elected on the first Tuesday of April, 1908, and at a regular election to be held biennially thereafter on the first Tuesday of April, and shall hold their offices for two years and until their successors are elected and qualified. Any vacancy occurring in the Board of Education shall be filled by an election to be held by said board, and the person elected shall hold office for the unexpired term. The members of said board shall serve without compensation, shall have exclusive control of the public schools of the City of Dallas, and shall have full and ample authority, in accordance with the provisions hereof, to provide necessary school buildings and facilities, and to open and conduct a sufficient number of schools to meet the wants of the scholastic population of the City of Dallas, so far as they can do so by prudent and judicious application of the means made subject to their administration and management. Among the powers hereby conferred on said Board of Education, the following are for greater certainty enumerated: To contract for, lease and purchase lots, and to construct buildings for school purposes, and to make all needed repairs and alterations in same; to furnish said school buildings with all appropriate furniture, fixtures and apparatus; to sell or dispose of school property when the same is necessary or advisable; to lay off the city into such school districts as, in the judgment of the said board, shall be proper; to increase or diminish said districts, and to change the boundaries thereof at pleasure; to employ superintendents, teachers and such other persons as may be necessary, and to fix their compensation and prescribe their duties, and to establish all such regulations and rules deemed necessary by the board to provide and maintain an efficient system of public schools in the City of Dallas. The Board of Commissioners, when levying the annual tax for the fiscal year, shall levy an ad valorem tax of one-fourth of one per centum of the taxable value of the City of Dallas for that fiscal year, and said tax, when collected, shall be deposited with the City Treasurer by the Board of Commissioners to the credit of the school fund, which said sum, together with all sums received from the State, county and other school funds, shall be held by the City Treasurer subject to the order and disbursement of the Board of Education, and shall be paid out upon warrants issued by order of said Board of Education, audited by the City Auditor and signed by the president and secretary of the Board of Education. An official statement or

copy of all contracts, claims, accounts, pay rolls and demands of whatever nature whereby any money is to be disbursed or expended from the school funds and also complete annual reports showing the operations of the schools, shall be filed with the City Auditor, who shall examine, adjust and audit all claims, accounts, pay rolls and demands before same shall be paid. The school board may enter into contracts by competitive bids with publishers and dealers in school supplies for furnishing to the patrons or pupils of the public schools of the city any and all books, stationery and school supplies required by the city schools at such prices as may be agreed upon by and between the board and such publishers or dealers, in no case to exceed the list prices of the same articles in the book stores of the city, and when such contracts or agreements are made by the Board of Education it shall be the duty of the secretary of the Board of Education to keep constantly on hand, and to furnish to the patrons or pupils of the city schools, the various books, stationery and supplies thus agreed upon and at the prices agreed upon by the Board of Education; provided, that no profit, compensation or commission shall ever be allowed to or collected by said board, its secretary or any member thereof, upon the agreed or contract prices at which the publishers or dealers furnish the same to the Board of Education under any such agreement or contract, provided, that this subdivision of this act shall be subject to the provisions of the uniform text book act applying to the same subject matter.

2. The president of the Board of Education shall be elected and hold his office as hereinbefore provided. He shall preside over all meetings of the Board of Education, and in case of a tie on any question, he shall give the casting vote, but in elections he shall vote as other members of the board. He shall be active in enforcing the laws, rules and regulations governing said board. He shall, from time to time, give information about the condition of affairs, and recommend for consideration such measures as he deems best for the schools. At the first regular meeting of the Board of Education after the general election or as soon thereafter as practicable, the president shall appoint the standing committees of the board, and the president shall be exofficio a member of all committees of the board. He shall have the power to veto any resolution, by-law, motion or order passed by the Board of Education, by filing his written objections within three days after the passage thereof, Sundays and day of passage excluded, at the next meeting, or as soon thereafter as practicable, the board shall consider such objections, and unless the board shall pass the measure over his veto by a two-thirds vote of all the members, taken by yeas

and nays, such measure shall be of no effect. The regular meetings of the board shall be at such times as the board may fix by resolution or otherwise, but the president, on his own motion, may call special meetings by written notice thereof served upon each member or left at his place of abode or usual place of business. At the first meeting of each new board, or as soon thereafter as practicable, the board shall elect one of the members vice-president, who shall hold his office for two years. In case of absence, failure, inability or refusal of the president to act, the vice-president shall perform the duties of the president. In the absence of the president and vice-president, any one of the members may be chosen to preside.

3. The Board of Education shall have power, when money for that purpose is available from the general fund, or is voted therefor by special tax, to establish and maintain a system of kindergartens in connection with the public schools.

4. Whenever the amount involved in any purchase or sale of property proposed to be made by the Board of Education shall equal or exceed the sum of one thousand dollars, it shall be the duty of said board to certify its action with respect to said matter to the Board of Commissioners, and said board shall have power to veto and nullify said action within five days after being notified thereof, but to become effective such veto must be supported by and receive the votes of four members of said board and such action must be taken within five days after notice in writing of the terms of such proposal shall have been filed by the Board of Education with the Board of Commissioners.

ARTICLE VI.

The Park Board.

1. Within thirty days after the 1st day of April, 1908, or as soon thereafter as practicable, and on the fourth Tuesday in April, 1909, and biennially thereafter, the Mayor shall appoint four qualified voters of the City of Dallas, subject to confirmation by the Board of Commissioners, who shall, with the Mayor, constitute the Park Board of said city, and who shall serve for a period of two years and until their successors are appointed and qualified. Said Park Board shall have exclusive jurisdiction over the control, management and maintenance of the public parks of the City of Dallas with power to acquire in the name of the city land for park purposes, except as herein otherwise provided.

2. All funds appropriated and set aside for public parks,

whether derived from appropriations made by the Board of Commissioners, or from tax levies, or from any other source whatsoever shall be deposited with the City Treasurer to the credit of the park fund, and paid out only upon order of said Park Board after same shall have been audited by the City Auditor.

3. The Park Board shall adopt rules and regulations as it may deem best for the management of the public parks of the city, and shall elect one of its members president of the Park Board.

The said Park Board shall render to the Board of Commissioners quarterly reports for the quarters ending the last day of September, December, March and June, or as soon after the end of each quarter as practicable, showing in detail all the transactions of said board for that quarter.

4. The Board of Commissioners when levying the taxes for each fiscal year shall levy an ad valorem tax of one-tenth of one per cent of the assessed value of all real and personal property in the city not exempt from taxation by the Constitution and laws of the State for the use and benefit of the park fund. Said tax, when collected, shall be deposited with the City Treasurer to the credit of the park fund, and said sum, together with all sums received from other sources, shall be held by the City Treasurer subject to the order and disbursement of the Park Board for acquiring additional land for parks and improving and maintaining parks, and shall be paid out upon warrants issued by the Park Board, signed by the president of said board, and countersigned by the City Auditor.

5. Said Park Board shall have power to contract for and to let the use of the Fair Park acquired and now owned by the City of Dallas, heretofore known as State Fair Grounds, or any portion of, or addition thereto, for public fairs and public race meets, with authority to sell on said grounds pools on horse races, when conducted thereon under the supervision of a regularly chartered Fair Association, and also for other public entertainments for limited periods of time, including Sundays, during which admission fees may be charged to and in said grounds or any portion thereof, and all contracts and arrangements heretofore made with the City of Dallas by its City Council in relation to said grounds shall be binding upon and shall be observed by said Park Board, and in the performance of such contracts and arrangements, the duties, functions and authority imposed on the City Council or its committees by the terms of such contract or arrangement, shall be instead imposed upon and assumed by said Park Board. The Park Board shall have

the exclusive power to direct, and control the improvement and maintenance of said grounds and appurtenances, subject to existing and future contract rights.

6. The four Park Commissioners shall possess the same qualifications and be subject to the same disqualifications provided by law for Commissioners of the City of Dallas, and shall serve without compensation.

The Park Board may select such guards as they may deem necessary to protect the parks and property thereon in the City of Dallas, and such guards shall be commissioned as policemen by the proper municipal authorities at the request of said board but such persons shall be under the control of the Park Board and their compensation shall be fixed by said board and they shall be subject to removal or dismissal at pleasure and without cause by said board.

7. All funds arising from the levy of the tax of one-tenth of one per cent under an ordinance passed by the City Council of the City of Dallas to pay warrants for the purchase of what is known as Fair Park, formerly the property of the Texas State Fair, over the amount necessary to pay for said warrants and interest thereon, shall be deposited with the City Treasurer to be used exclusively in acquiring additional ground for or improving said Fair Park.

ARTICLE VII.

Assessment and Collection of Taxes.

1. The Assessor and Collector of Taxes shall be under the immediate supervision of the Commissioner of Finance and Revenue, who shall be directly responsible for the performance of all duties relating to said office. He shall assess all taxable property in such manner and within such time as the Board of Commissioners may prescribe. He shall make duplicate assessment rolls and on their completion and approval by the Board of Commissioners shall deliver one to the Commissioner of Finance and Revenue, and retain one for his use in collections. He shall be authorized to require property holders to render a correct account of their property, under oath or affirmation to be by him administered. He shall collect all taxes due the city, whether the same be general, special assessment, occupation, license, or otherwise, and shall pay the same over to the City Treasurer within twenty-four hours of their collection, making duplicate receipts therefor, one of which he shall retain, and the other he shall turn over to the Board of Commissioners. He shall monthly or oftener, if required, make a detailed report to the Board

of Commissioners of all collections made by him. He shall be vigilant and see that no business of any kind is conducted unless license or occupation tax due therefor shall have first been paid. Said officer, and the Commissioner of Finance and Revenue, shall be responsible for all acts of the deputies in said offices. He shall be active in collecting all delinquent taxes and enforce their collection as herein provided, and as may be provided by ordinance. He shall give bond in such amount and form as the Board of Commissioners may prescribe, with good and sufficient sureties. The Board of Commissioners may require a new bond of him, if in their opinion the existing bond is insufficient, and whenever such bond is required, he shall perform no official act until such bond shall be given and approved. He shall have all the powers and perform all the duties herein provided, and such others as the Board of Commissioners may confer and prescribe. For any failure to deposit with the City Treasurer within twenty-four hours of the collection thereof, all moneys collected by him, the said Assessor and Collector of taxes and the sureties on his bond shall be required to pay interest at the rate of 10 per cent per annum on such money until deposited, and the Board of Commissioners shall have power to remove said Assessor and Collector of taxes from office for failure to deposit any collections as required, and it shall be their duty to remove said officer for such offense if it shall be persisted in by him.

If the Assessor and Collector of Taxes purposes to increase any assessment over the amount assessed in the preceding year, he shall cause notice stating the fact that the assessment of the property owner is about to be increased, without specifically designating the particular property, or the amount to be increased, to be addressed to the owner, agent or representative thereof, and mailed at the postoffice in the City of Dallas, and shall give further notice by publication for one day in some newspaper published in the city of Dallas, and in such newspaper publication the names of as many owners as the Assessor and Collector of taxes shall see fit may be included in one notice, provided, when the owner is unknown the newspaper notice shall be sufficient.

The Assessor and Collector of Taxes shall have the power under such regulation and method as may be prescribed by the Board of Commissioners by ordinance, to prorate the taxes against tracts of land owned by different owners which have been taxed together as one tract, and to divide and apportion the lien to each of the several tracts according to its proportion of the entire assessment.

2. The Board of Commissioners shall have full power to provide by ordinance for the prompt collection of taxes assessed,

levied and imposed under this charter, and are hereby authorized, and to that end may and shall have full power and authority to sell or cause to be sold all kinds of property, real and personal, and may and shall make such rules and regulations and ordain and pass all ordinances deemed necessary to the levying, laying, imposing, assessing and collecting of any taxes provided for in this charter. Unless otherwise provided by ordinance and this act all property in such city liable to taxation shall be assessed in accordance with the provisions of the general laws of the State in so far as applicable.

3. The Board of Commissioners shall have power by ordinance to regulate the manner and mode of making out tax lists, inventories and appraisements of property therein, and to prescribe the oath that shall be administered to each person on rendition of his property, and prescribe how, when and where property shall be rendered, and to prescribe the number and form of assessment rolls and fix the duties and define the powers of City Assessor and Collector, and adopt such measures as the Board of Commissioners may deem advisable to secure the assessment of all property within the city limits, and collect the tax thereupon, and may provide a fine for all persons neglecting, failing or refusing to render their property for taxation.

4. The Assessor and Collector of Taxes shall, at least ten days before the 1st day of January of each year, give public notice by hand bills circulated through the city and by advertisement in some paper, that all persons owning or controlling, as agent or otherwise, any personal property or real estate subject to municipal taxation, are required to render same for taxation on or before the 1st day of April of each year. All merchants doing business in the city are required within the same time to furnish the Assessor and Collector of taxes a true statement, verified by affidavit, of all goods, wares and merchandise owned or kept on hand by such merchant on the 1st day of January. Any merchant failing to comply with this requirement shall be liable to such fine as may be imposed by ordinance.

5. If the Assessor and Collector of Taxes shall discover any real or personal property which was subject to taxation for any previous year, and which from any cause has escaped taxation for that year, he shall assess the same in a supplement to his next assessment roll at the same rate under which such property should have been assessed for such year, stating the year, and the taxes thereon shall be collected the same as other assessments; provided, that such supplement roll may be made at any time and reported to the Board of Commissioners for its approval, and any number of such rolls may be made that may be

necessary. The taxes assessed in such supplement rolls for years previous to the approval of such rolls shall be due at once upon the approval of such rolls by the Board of Commissioners, and such taxes may bear interest at the rate of six per cent per annum from the date on which the same would have been delinquent if levied and assessed, and if the same shall not be paid within thirty days after the date of such approval, the City Collector shall proceed to collect the same by advertisement and by sale of such property as soon as practicable; such advertisement and sale to be made in the same manner and for the same time as in cases of the sale of such property for other city ad valorem taxes, as prescribed by the city charter; provided, that a misnomer of, or failure to name the owner in the assessment roll shall not affect the validity of the assessment of any taxes; and, provided further, that when such taxes have not been attempted to be assessed for such previous year, such taxes shall bear interest only from the date of the approval of the supplemental rolls. The Assessor and Collector of taxes may in any year re-assess property which, because of irregularity in the assessment, of any previous year may have been improperly assessed; such re-assessment shall be at the value at which it should have been assessed in any such year, and property owners of such property shall take notice of such re-assessment, if made prior to the 1st of April in any year, but if made after such date, notice shall be given by the Assessor and Collector of taxes as in case of the raising of an assessment. Any property owner whose property has been re-assessed may appeal to the Board of Appeals as in case of an original assessment.

6. The Assessor and Collector of Taxes shall assess all property which for any cause has not been rendered, placing such valuation thereon as he may deem just. If the owners of such property are unknown, such assessment may be made in the name "unknown."

7. No irregularity in the time or manner of making or returning the city assessment rolls or the approval of such rolls shall invalidate any assessment.

8. All property, real and personal, shall be rendered for taxation by the owner thereof or his agent, as provided by the laws of the State for the rendition of property for assessment by the county; provided, however, that in making such renditions the owner or agent shall not be required to state the value of the real property, but shall furnish to the Assessor and Collector, verified by the oath of the party making such rendition, a full and complete list and schedule of all property, real and personal, belonging to the person, firm or corporation in whose name such

property is rendered. It shall be the duty of the Assessor and Collector to value each and every item of the property so rendered in accordance with the fair market price thereof upon a basis of valuation to be applied alike to all taxpayers, and to transmit to the Board of Commissioners all renditions thus made together with a statement by him, verified by his oath, to the effect that he has truly, fairly and equally valued all such property. The Board of Commissioners, sitting as a board of equalization and appeals, shall revise the tax rolls, and it shall be their duty to correct all unequal assessments, and to increase or reduce the valuation fixed by the Assessor and Collector, as the case may require, so as to equalize the basis and method of assessment adopted for all such renditions. It shall also be their duty to hear and fairly determine all appeals from property assessments fixed by them or under their authority. It shall be the duty of the Board of Commissioners to adopt such rules and regulations from time to time as to them may appear necessary to secure complete rendition for assessments of all taxable property in the city.

The Board of Commissioners shall cause to be prepared, as soon as practicable after the tax rolls shall be revised and finally adopted, an alphabetical list of the taxpayers of the city, together with the total amount of property assessed against each, which list shall be preserved in the office of the City Secretary and shall be accessible to the public.

9. A lien is hereby created on all property, personal and real, in favor of the City of Dallas, for all taxes, ad valorem, occupation or otherwise. Said lien shall exist from January in each year until the taxes are paid. Such lien shall be prior to all other claims, and no gift, sale, assignment or transfer of any kind, or judicial writ of any kind, can ever defeat such lien, but the Assessor and Collector of taxes can pursue such property, and whenever found, may seize and sell enough thereof to satisfy such taxes.

10. If anyone against whom a personal tax is assessed, and which is due and unpaid, whether the same be delinquent or not, shall have removed out of the city, or shall be about to remove out of the city, or shall have removed or about to remove his personal property out of the city, it shall be the duty of the Assessor and Collector of taxes to proceed at once and collect such taxes by seizure and sale of any personal property of such person to be found in the City of Dallas or anywhere in the State of Texas.

11. All taxes shall be payable at the office of the Assessor and Collector of taxes and the Board of Commissioners shall have

full power to sell or cause to be sold, all personal and real property for taxes due, and shall make all rules and regulations necessary for such purpose.

12. No demand for taxes shall be necessary, but it is hereby made the duty of every person or corporation subject to taxation to attend at the office of the Assessor and Collector of Taxes some time between the second Monday in June and the first day of November in each year and pay his or her taxes. If any taxpayer shall fail to pay such taxes before the first day of November after the same shall become due, the same shall be delinquent and bear interest at the rate of six per cent per annum. Upon all taxes paid or collected after the first day of November the Assessor and Collector of Taxes shall collect from the delinquent taxpayer a penalty of two per cent of the total amount of taxes collected from or paid by such taxpayer. On all taxes paid or collected after the first day of December next following the time when such taxes shall have become due, the Assessor and Collector of taxes shall collect a penalty of four per cent on the total amount of taxes paid or collected. On all taxes paid or collected after the first day of January next following the date on which such taxes shall have become due, the Assessor and Collector of taxes shall collect a penalty of six per cent on the total amount of taxes paid or collected. On all taxes paid or collected after the first day of February next following the time at which such taxes have become due, the Assessor and Collector of taxes shall collect a penalty of ten per cent on the total amount of taxes paid or collected, which penalty shall be cumulative of and in addition to the interest provided for by this section and such penalties shall be an obligation of the taxpayer, and be secured by the same lien and collected in the same manner as the taxes.

13. The Assessor and Collector of Taxes shall, by virtue of his tax rolls, have power and authority to seize and levy upon personal property and real estate and sell the same to satisfy delinquent taxes. When he seizes personal property for such purposes he shall keep the same at the expense of the owner until the sale is made, and shall give notice of the time and place of sale of same by posting a written notice at the city hall door and one at the court house in the City of Dallas, at least ten days before the date of sale. He shall sell the same to the highest bidder for cash for all taxes, interest, cost and expenses of caring for said property, and shall make an entry in the book of sales of the amount realized; all such sales shall be made at any door of the city hall.

14. Before sales of real estate are made, notice of the time

and place of sale, together with, as near as may be, a description of the property shall be given by posting two notices, one at the court house and the other at the city hall in the City of Dallas. also by publication in some newspaper of the city, for at least three weeks, which shall contain a statement of the amount due on each particular piece of ground; all such sales shall be made at any door of the city hall specified by ordinance.

15. The Board of Commissioners shall have full power to do, or cause to be done, everything whatsoever necessary to enforce a prompt and valid assessment and collection of all taxes and assessments provided for in this chapter, and to make all regulations necessary for a valid assessment of such taxes and for the sale of property for said taxes and assessment.

16. The Assessor and Collector of Taxes shall, where any real estate has been sold for taxes, make and execute a deed to the purchaser for the property sold, which deed shall be prima facie evidence of the following facts:

First. That the lot or lots, or property conveyed, was or were subject to taxation and assessment at the time of such sale, and at the time taxes thereon were levied and assessed, and that such taxes were regularly levied and assessed in all respects according to law.

Second. That such taxes were not paid in whole or in part at any time before such sale, and that a lien existed on the property conveyed in such deed for taxes.

Third. That the real estate therein conveyed was advertised according to law.

Fourth. That the property conveyed was advertised according to law, was regularly and lawfully sold for taxes, which were delinquent at the time of the advertisement and sale.

Fifth. When such property shall have been sold to the City of Dallas or any other purchaser, at such sale, either for general or special taxes, the title acquired by the city, or such purchaser, shall not be disputed by any person whomsoever, or for any cause whatever, except upon tender to said city, or purchaser, of the taxes lawfully due on such property from which such sale was made, together with lawful interest thereon, and all accrued penalties and costs, as provided by the city charter of the City of Dallas.

17. A sale of personal property for delinquent taxes shall convey with it an absolute title, and the owner shall have no right to redeem the same.

18. The city shall have the right to become a purchaser of property at tax sales, and the Mayor shall attend such sales for such purpose, and may empower any person to so bid on behalf of the city.

19. Whenever any real property is bid off to the city, or to any individual, for delinquent taxes, the owner or attorney, or his agents may redeem the same at any time within two years from day of sale by paying the following amounts: All taxes paid or due, ten per cent per annum interest from the time they became delinquent, and two and one-half (\$2.50) dollars as costs on each piece of property sold, and as a further penalty, a sum equal to twenty-five per cent of the amount of the delinquent tax if redeemed in three months; fifty per cent penalty if redeemed in six months; seventy-five per cent penalty if redeemed in one year, and one hundred per cent if redeemed thereafter within two years, the said penalties to go to the purchasers at tax sales, whether the purchaser be the city or an individual.

20. If any real property sold for taxes under the provisions of this act shall not be redeemed within two years from the day of sale, the holder of the tax deed shall have the right to bring suit in any district court in the County of Dallas to have the absolute title to such real estate, without any equity of redemption, vested in him.

21. All levies of ad valorem taxes heretofore made by the City of Dallas, and all assessments heretofore made, and assessment rolls heretofore placed in the hands of the City Assessor and Collector of taxes for collection are hereby validated, and the same shall be legal and binding, regardless of any irregularity that may exist in the manner of making such levies, and the making and returning of such assessment rolls. This provision shall apply to all suits and actions now pending, as well as those hereafter prosecuted.

22. In any suit by the City of Dallas for the collection of any delinquent tax where it shall appear that the description of any property in the city assessment rolls shall be insufficient to identify such property, the city shall have the right to set up in its pleading a good description of the property intended to be assessed, and to prove the same, and to have its judgment foreclosing its tax lien upon the same, and personal judgment against the owner for such taxes, the same as if such property were fully described upon the assessment rolls.

23. When the owner of any property, or his agent, shall render any property to the Assessor and Collector of taxes for assessment, and such property is assessed in accordance with the

description furnished by such owner or his agent, the sufficiency of such description shall not be disputed by such owner in any action or suit for the collection of such taxes, but the same shall be binding upon such owner, and shall be sufficient for all purposes of such assessment.

24. The provisions herein for the collection of taxes shall not be construed to prevent the city from filing suit in any court of competent jurisdiction for the collection of any taxes due on real estate, as well as personal property, and for the enforcement of levies for such taxes; and the assessment rolls shall be prima facie evidence of the facts stated in said rolls and that all taxes assessed on such rolls have been regularly levied and assessed in accordance with the provisions of this charter and of the law; and no irregularity in the manner of levying or assessing taxes shall invalidate the same unless it appears from affirmative proof that such irregularity operated injuriously to the taxpayer attempting to avoid the payment of such tax. Nothing in this section shall prevent the Board of Commissioners from hearing all complaints as to erroneous and unjust assessments, and said Board of Commissioners is hereby empowered and it is hereby made their duty to hear such complaints, and said Board shall have power within one year after this act goes into effect, and not thereafter, to readjust, compromise and settle all disputes with reference to the legality or validity of taxes claimed to be due by any person or persons upon any real estate within the city. They may reduce former assessments on satisfactory proof that the same was excessive; such settlements when certified to by the Board of Commissioners to be filed with the Assessor and Collector of Taxes who shall accept payment of taxes in accordance with and thereafter a tax receipt for the amount of said taxes in full for all such years as aforesaid shall be accepted in full satisfaction for said taxes.

ARTICLE VIII.

Initiative and Referendum of Ordinances.

1. Any proposed ordinance may be submitted to the Board of Commissioners by a petition signed by registered electors of the city equal in number to the percentages hereinafter required. The signatures to the petition need not all be appended to one paper, but each signer shall add to his signature his place of residence, giving street and number. One of the signers of each paper shall make oath before an officer competent to administer oaths that the statements therein made are true, and that each signature to the paper appended is the genuine signature of the person whose name purports to be thereunto subscribed. Within ten days from

the date of filing such petition the City Secretary shall examine and ascertain whether or not said petition is signed by the requisite number of qualified electors, and if necessary the Board of Commissioners shall allow him extra help for that purpose, and he shall attach to said petition his certificate showing the result of such examination. If by the Secretary's certificate the petition is shown to be insufficient it may be amended within ten days from the date of said certificate. The Secretary shall, within ten days after such amendment, make like examinations of the amended petition, and if his certificate shall show the same to be insufficient, it shall be returned to the person filing the same, without prejudice, however, to the filing of a new petition to the same effect. If the petition shall be found to be sufficient, the Secretary shall submit the same to the Board of Commissioners without delay.

If the petition accompanying the proposed ordinance be signed by electors equal in number to 15 per cent of the entire vote cast for all candidates for Mayor at the last preceding general election, at which a Mayor was elected, and contains a request that said ordinance be submitted forthwith to a vote of the people at a special election, the Board of Commissioners shall either:

(a) Pass said ordinance without alteration within twenty days after the attachment of the Secretary's certificate of sufficiency to the accompanying petition (subject to referendary vote under the provisions of this charter, and if the ordinance shall be passed by the Board of Commissioners, but shall be vetoed by the Mayor and on reconsideration shall fail of passage by the Board of Commissioners, then within five days after determination that said ordinance shall have so failed of final adoption, the Board of Commissioners shall proceed to call a special election at which said ordinance, without alteration, shall be submitted to a vote of the people; or

(b) Forthwith after the Secretary shall attach to the petition accompanying such ordinance his certificate of sufficiency, the Board of Commissioners shall proceed to call a special election, at which said ordinance, without alteration, shall be submitted to a vote of the people.

If the petition be signed by electors equal in number to at least 5 per cent, but less than 15 per cent, of the entire vote cast for all the candidates for Mayor at the last preceding general election at which a Mayor was elected, then such ordinance, without alteration, shall be submitted by the Board of Commissioners to a vote of the people at the next general municipal election that shall occur at any time after thirty days from the date of the Secretary's certificate of sufficiency attached to the petition accompanying such ordinance.

The ballots used when voting upon said ordinance shall contain the words, "For the Ordinance" (stating the nature of the proposed ordinance), and "Against the Ordinance" (stating the nature of the proposed ordinance). If a majority of the qualified electors voting on said proposed ordinance shall vote in favor thereof, such ordinance shall thereupon become a valid and binding ordinance of the city, and any ordinance proposed by petition, or which shall be adopted by a vote of the people, cannot be repealed or amended except by a vote of the people.

Any number of proposed ordinances may be voted upon at the same election, in accordance with the provisions of this section of the charter, but more than one special election shall not be held in any period of six months.

The Board of Commissioners may submit a proposition for the repeal of any such ordinance or for amendments thereto, to be voted upon by any succeeding general city election, and should such proposition so submitted receive a majority of the votes cast thereon at such election, such ordinance shall be repealed or amended accordingly.

Whenever any ordinance or proposition is required by this charter to be submitted to the voters of the city at any election, the City Secretary shall cause the ordinance or proposition to be printed, and he shall enclose a printed copy thereof in an envelop with a sample ballot, and mail the same to each voter at least ten days prior to the election, but the Board of Commissioners may order such ordinance or proposition to be printed in the official newspaper of the city and published, and may order that such publication shall take the place of the printing and mailing of the ordinance or proposition and of the sample ballots as first above provided.

2. No ordinance passed by the Board of Commissioners, except when otherwise required by the general laws of the State, or by the provisions of this charter respecting street improvements, and except an ordinance for the immediate preservation of the public peace, health or safety, which contains a statement of its urgency and is passed by a four-fifths vote of the Board of Commissioners (but no grant of any franchise shall be construed to be an emergency measure, but all franchises shall be subject to the referendary vote herein provided), shall go into effect thirty days from the time of its final passage and its approval by the Mayor; and if during said thirty days a petition signed by electors of the city equal in number to at least fifteen per cent of the entire vote cast for all candidates for Mayor of the last preceding general election at which a Mayor was elected, protesting against the passage of such ordinance, shall be presented to the Board of Commissioners, the same shall thereupon be suspended from go-

ing into operation, and it shall be the duty of the Board of Commissioners to reconsider such ordinance, and if the same is not entirely repealed the Board of Commissioners shall submit the ordinance, as is provided in Section 1 of Article VIII of this City Charter, to the vote of the electors of the city, either at the next general election, or at a special municipal election to be called for that purpose, and such ordinance shall not go into effect or become operative, unless a majority of the qualified electors voting on the same shall vote in favor thereof. Said petition shall be in all respects in accordance with the provisions of said Section 1 of Article VIII, except as to the percentage of signers, and be examined and certified by the Secretary, and in all respects as is therein provided.

ARTICLE IX.

Recall of Elective Officers.

The holder of an elective office may be removed at any time by the qualified voters of the City of Dallas. The procedure to effect the removal of an incumbent of an elective office shall be as follows: A petition signed by the qualified voters of said city, equal in number to at least 35 per cent of the entire vote cast for candidates for the office of Mayor on the final ballot at the last preceding general municipal election, demanding the election of a successor of the person sought to be removed, shall be filed with the City Secretary; provided, that the petition sent to the Board of Commissioners shall contain a general statement of the grounds for which removal is sought. The signatures to the petition need not all be appended to one paper, but each signer shall add to his signature his place of residence, giving the street and number. One of the signers of each such paper shall make oath before an officer competent to administer oaths that the statements herein made are true, and that each signature to the paper appended is the genuine signature of the person whose name purports to be thereunto subscribed. Within ten days from the date of filing such petition the City Secretary shall examine, and from the list of qualified voters of said city, ascertain whether or not said petition is signed by the requisite number of qualified voters, and he shall attach to said petition his certificate showing the result of said examination. If by the Secretary's certificate, the petition is shown to be insufficient, it may be amended within ten days from the date of said certificate. The City Secretary shall, within ten days after such amendment, make like examination of the amended petition, and if his certificate shall show the same to be insufficient, it shall be returned to the person filing the same, without prejudice, however, to

the filing of a new petition to the same effect. If the petition shall be found to be sufficient, the City Secretary shall submit the same to the Board of Commissioners without delay.

If the petition shall be found to be sufficient, the Board of Commissioners shall order and fix a date for holding the said election, not less than thirty days, nor more than forty days from the date of the Secretary's certificate to the Board of Commissioners that a sufficient petition is filed.

The Board of Commissioners shall make or cause to be made, publication of notice and all arrangements for holding of such election, and the same shall be conducted, returned and the result thereof declared in all respects as are other city elections, and a majority of all the votes which shall be cast at such election shall be necessary to elect. In the event no candidate shall receive such majority at the first election, a second election shall be held in accordance with the provisions of Article III hereof. The successor of any officer so removed shall hold office during the unexpired term of his predecessor. Any person sought to be removed may be a candidate to succeed himself, and unless he requests otherwise in writing, the City Secretary shall place his name on the official ballot without nomination. In any such removal election the candidate receiving the highest number of votes shall be declared elected. At such election if some other person than the incumbent receives the highest number of votes, the incumbent shall thereupon be deemed removed from the office upon the qualification of his successor. In case the party who receives the highest number of votes should fail to qualify within ten days after receiving notification of election, the office shall be deemed vacant. If the incumbent receives the highest number of votes he shall continue in office.

ARTICLE X.

Street and Sidewalk Improvements.

Section 1. The term "Street Improvements" as embraced in this Article, shall include the improvement of any street, avenue, alley, highway, public place or square, or any portion thereof, within the city, by filling, grading, raising, macadamizing, re-macadamizing, paving, repairing or otherwise improving the same, or by construction or reconstruction of sidewalks, curbs and gutters, or repairing the same; and shall also include the laying out, opening, narrowing, straightening, or otherwise establishing, defining, and locating any street, avenue, public alley, square, place or sidewalk; and said term shall also include any other street improvement of a public nature and for a public benefit.

(a) The term "Public Highway," wherever used hereafter in

this article shall be deemed to include any street, avenue, alley, highway or public place or square, or any portion thereof, within the City of Dallas, dedicated to public use.

(b) The Board of Commissioners shall have power to order the improvement of any public highway or highways, or parts thereof, within the City of Dallas, and shall have power to prescribe the nature and extent of such improvements.

(c) The Board of Commissioners shall have power to cause sidewalks, curbs and gutters to be constructed, reconstructed, or repaired, under and by virtue of the terms of this article and the various subdivisions thereof, either separately or together with other improvements; provided, that the cost of constructing, reconstructing or repairing sidewalks shall be borne entirely by the owners of property abutting upon such sidewalks; and provided that the right of the Board of Commissioners to order the construction, reconstruction or repair of such sidewalks, curbs and gutters, under the terms of this article and the various subdivisions thereof, shall be exclusive of and in addition to, the powers hereinafter in this charter conferred upon such Board of Commissioners to order such improvements.

(d) Subject to the terms thereof, the cost of improving any public highways may be paid wholly by the city, or partly by the city and partly by the owners of property benefited by such improvement and abutting upon the public highway, or portion thereof, ordered to be improved; provided, that when any person, firm or corporation owns any railroad or street railroad or railroad switch of any kind on such public highway, or portion thereof, ordered to be improved, such person, firm or corporation shall pay the whole cost of such improvement between the rails and tracks and for two feet on each side of the rails of such railroad or street railroad and the city shall be relieved of the part of the costs to be paid by such road. The pro rata share of the cost of such improvement payable under the terms hereof by any railroad or street railroad, or the owners thereof, together with all costs of collecting the same, shall be a special tax against, and secured by a lien upon the roadbed, ties, rails, fixtures, rights and franchises of such railroad or street railroad and the owners thereof. Whenever a contract shall be let for any such improvement, the Board of Commissioners shall levy a special tax upon the roadbed, ties, rails, fixtures, rights and franchises of such railroad or street railroad for the pro rata share due from such road for improvements between their tracks and rails and two feet on each side thereof. Said tax shall be levied at or after the time such contract is let or executed, and shall become due and delinquent as the ordinance levying the same may specify, shall be a lien from the time of levy and the proceeds thereof

shall be used for the payment of the costs of such improvement. If said tax be not paid as provided for by ordinance, then collection shall be enforced, as the collection of other taxes, by advertisement and sale of the property, rights and franchises levied upon; provided, it shall not be necessary to sell at the same time as for delinquent ad valorem taxes. At any such sale the City Tax Collector, or such other officer as may be designated by the Board of Commissioners, shall execute to the purchaser a deed similar to the one executed when property is sold for ad valorem taxes. Such assessment and lien may also be enforced by suit brought in any court having jurisdiction thereof. The lien provided for shall be a first and prior lien paramount to all encumbrances except taxes, upon the roadbed, ties, rails, fixtures, rights and franchises of the person, firm, company or corporation owning the railroad or street railroad as aforesaid.

(e) The Board of Commissioners shall have power, by resolution, to order the making of the public improvements mentioned in this article, or any of them, by majority vote, and the passage of such resolution shall be conclusive of the public necessity therefor and the benefits thereof, and no notice of such action by the Board of Commissioners shall be requisite to its validity. Such resolution shall, in general terms, set forth the nature and extent of the improvement or improvements to be made, the section or sections of any public highway or highways to be improved, the material or materials with which the improvements are to be constructed, and the method or methods under which the costs of such improvements are to be paid. Such resolution may specify that said improvements may, at the election of the Commissioners be constructed from different materials, and may specify different or alternative methods of making such improvements, and providing for the payment of the costs thereof.

Upon the passage of such resolution it shall be the duty of the City Engineer to forthwith prepare specifications for the said improvement, which specification shall embrace the different materials or different plans or methods, under which the said improvements or part thereof, are to be constructed or paid for, if such different materials or alternative plans or methods of construction or payment are specified in said resolution, and such specifications shall also describe the character of bond or bonds to be required of the successful bidder for the construction of said improvements or the maintenance thereafter as hereinafter provided. When such specifications have been prepared, they shall be submitted to the Board of Commissioners for their approval. The Board of Commissioners shall have power to require of the contractor or contractors to whom the work may be let, a bond for the faithful performance of the contract, and also for

the maintenance of the work in good condition at the cost of the contractor for a term not more than five years from the completion thereof, and for the maintenance thereof by the contractor at the cost of the city for an additional term of not exceeding five years from the completion of such work. The bonds (if any) required by the Board of Commissioners to be executed by the contractor, shall be executed by such contractor or contractors to whom the work may be let, together with one corporate surety acceptable to said Board of Commissioners which shall be a surety company authorized to do business within the State of Texas.

When specifications have been adopted for such improvements by the Board of Commissioners, it shall be the duty of the City Secretary, or such other officer as may be designated by the Board of Commissioners, to at once advertise for sealed bids for the construction of such improvements in accordance with the specifications adopted therefor. Such advertisement shall be inserted in a daily paper of general circulation in the City of Dallas, and shall state the time within which bids may be received as prescribed by the Board of Commissioners, which shall be not less than ten or more than fifteen days from the insertion of said advertisement. Bids shall be filed with the City Secretary, or such other officer as the Board of Commissioners may designate, and shall be opened and read in public meeting of the Board of Commissioners. The Board of Commissioners shall have the right to accept such bids as it shall deem most advantageous to the city and the owners of the property abutting upon the public highway named to be improved, or may reject any and all bids; and where an improvement is ordered, upon different specifications, or for the construction of work, or part thereof, with different materials or under different plans or methods of construction or payment for such improvement, the Board of Commissioners shall have full power after opening bids, to select such methods, plan or materials for making said improvement, or any part thereof, as it may deem best, and to let the work to such bidder and upon such bid as it may select, subject to the terms thereof. No bid shall be amended, revised or changed after being filed.

(f) When bids for such improvements have been accepted by the Board of Commissioners, the city shall enter into contract with the contractor or contractors to whom the work has been let for the performance thereof, which contracts shall be executed in the name of the city by its Mayor and attested by the City Secretary, or such other officer as may be designated by the Board of Commissioners, with the corporate seal. The contractor or contractors to whom the said work has been let, shall execute such bond or bonds as may be required by the Board of Commis-

sioners, and as herein provided. Such contract and bonds, if satisfactory, shall be approved by the Board of Commissioners.

(g) Exclusive of the cost of making any improvements between, and two feet on each side of the tracks and rails of railroads and street railroads, which cost is to be assessed against and wholly paid by the owners of such railroads and street railroads as herein provided, and subject to the terms hereof, the City of Dallas, acting by its Board of Commissioners, shall have power to assess the whole cost of constructing, reconstructing and repairing any sidewalk, and not to exceed two-thirds of the cost of making any other improvements ordered under the terms hereof, against the owners of property abutting upon the public highway or highways, or part or section thereof, upon which such improvements are to be constructed, and who are specially benefited thereby, and shall have power to fix a lien against such property to secure the payment of the proportion of such costs assessed against the owners of such property; provided, that in no event shall such costs be assessed against such owners or their property, or their personal liability therefor finally determined, until after the hearing hereinafter mentioned, and after the adjustment of equities between such owners; and provided further, that the cost assessed against any property or owner thereof, shall not exceed the amount of the special benefit in enhanced value, which such property shall receive from such improvement.

The proportion of the costs of such improvement which may be assessed against any such property or its owners, shall be in proportion to the frontage of the property of each owner to the whole frontage of property on the public highway or highways or section thereof so ordered to be improved, and such cost shall be apportioned in accordance with what is commonly known as the frontage or front foot rule; provided, that if the application of this rule would, in the opinion of the Board of Commissioners, in particular cases, be unjust or unequal, it shall be the duty of said Board to assess and apportion said costs in such proportion as it may deem just and equitable, having in view the special benefits in enhanced value to be received by each owner of such property, the equities of such owners and the adjustment of such apportionment, so as to produce a substantial equality of benefits received by and burdens imposed upon each owner.

The Board of Commissioners shall also have power to provide that the proportion of the said cost which may be assessed against the said owners and their property shall bear interest at a definite rate not to exceed seven per cent per annum when the payment thereof is deferred, and shall have the power to include in any assessment which may be made against such owners and their property, reasonable costs of collecting the same where

such costs are incurred, and reasonable attorney's fees where attorney's fees are incurred.

(h) The contract or contracts for such improvements and the bond or bonds (if any required) having been executed and approved by the Board of Commissioners, if the cost, or any part thereof, of such improvement is to be assessed against abutting property, or owners thereof, it shall be the duty of the City Engineer to at once prepare a written statement which shall contain the names of such persons, firms, corporations or estates, as may own property abutting upon the section or sections of the public highway or highways named to be improved, the number of front feet owned by each, and describing the property owned by each, either by lot or block number, or otherwise so describing such property as may be sufficient to identify the same; and such statement shall also contain an estimate of the total cost of such improvement, the proportion and amount of such costs to be assessed against abutting property and the owners thereof, the amount per front foot to be assessed against abutting property and its owners and the total estimated amount to be assessed against each owner. Such statement shall be submitted to the Board of Commissioners, and it shall be the duty of the Board of Commissioners, to examine the same and correct any errors which may appear therein, but no error, omission or mistake in said statement shall in any manner invalidate any assessment made or lien or claim of personal liability fixed thereunder. When such statement has been examined and approved by the Board of Commissioners, if said Board of Commissioners shall have determined to assess any part of the costs of said improvements against such property owners and their property, it shall so declare by resolution directing notice thereof to be given to the owners aforesaid by publication for five successive days in a daily newspaper of general circulation in the City of Dallas, and also by mailing to said owners a copy of said notice by registered letter deposited in the postoffice in Dallas, Texas, directed to the address of said owner, if known, but if the address of any owner be not known, then to the agent or attorney of such owner, if known; provided, that the registered letters aforesaid shall be deposited in said postoffice not less than ten days prior to the date set for the hearing hereinafter provided for; and provided further, that the method herein prescribed for service of notice by registered letter shall be merely cumulative of the service of notice by publication above mentioned; and provided, that in all cases where personal service by registered letter shall not be obtained, said service by publication shall, nevertheless, be deemed valid and binding. The certificate of the City Secretary, or such other officer as may be designated by the Board of Com-

missioners, to the effect that the address of any such owner or owners, or of their agent or attorneys, is unknown to him, and that personal service cannot be had upon them shall be deemed conclusive. Any such owner may, in writing, waive the issuance of such notice and service thereof, and accept service. The notice aforesaid shall state the time of the hearing hereinafter provided for the general character of the improvements determined upon by the Board of Commissioners, the public highway, or part thereof, to be improved, and the proportionate part and amount per front foot of the total cost of the proposed improvement which is contemplated shall be assessed against the property and the owners thereof abutting upon such highway to be improved. On the day stated in the notice aforesaid, or any time thereafter before any special assessment is actually levied, any person, or firm, or corporation, interested in any property which may be claimed to be subject to assessment for the purpose of paying the cost of any improvement, in whole or part, shall be entitled to a full and fair hearing before said Board of Commissioners as to all matters affecting said property, or the benefits thereto, of such improvements, or any claim or liability, or objection to the making of such improvement, or any invalidity or irregularity in any of the proceedings with reference to making said improvement, or any other objections thereto. Such person, firm or corporation shall file their objections in writing, and thereafter the said Board of Commissioners shall hear and determine the same, and full opportunity shall be given to the persons, firms or corporations filing said objections to produce evidence, subpoena witnesses and to appear in person or by attorney, and a full and fair hearing thereof shall be given by the said Board of Commissioners, which hearing may be adjourned from time to time without further notice. And the Board of Commissioners, shall have full power to inquire into and determine all facts necessary to the adjudication of such objections and the ascertainment of special benefits to such owners by means of such improvements; and shall render such judgment and order in each case as may be just and proper. Any objection to the regularity of proceedings as herein provided or to the validity of any assessment of proceedings with reference to the making of such improvement or adjudication of personal liability against such property or the owners thereof, shall be deemed waived unless presented at the time and in the manner herein specified. The day set for such hearing shall be not less than ten days from the date of the first publication of said notice.

(i) When the hearing above mentioned has been concluded, Board of Commissioners shall, by ordinance, assess against the several owners of property and against their property abut-

ting upon the public highway or highways, or part thereof, ordered to be improved, such proportionate part of the costs of such improvement as by said Board of Commissioners may have been adjudged against said respective owners and their property. Said ordinance shall fix a lien upon such property and declare the respective owners thereof to be personally liable for the respective amounts to be assessed; and shall state the time and manner of payment of such assessments; and said Board of Commissioners may order that the said assessments shall be payable in installments, and prescribe the amount, time and manner of payment of such installments, which, however, except as hereinafter provided, shall not exceed three, and the payment shall not be deferred beyond three years from the completion of such improvement, and its acceptance by the city. The said ordinance shall also prescribe the rate of interest to be charged upon deferred payments provided, the same shall not exceed seven per cent per annum; and may provide for the maturity of all deferred payments and their collection upon default in the payment of any installment of principal or interest.

Each property owner, his heirs, assigns or successors, however, shall have the privilege of discharging the whole amount assessed against him, or any installment thereof, at any time before maturity, upon payment thereof, with accrued interest. Upon the payment by any property owner of his assessment in full, the city shall cause to be executed by its Mayor and duly acknowledged for record, a release of the lien of such assessment. The fact that more than one parcel or lot of land, the property of one owner or jointly owned by two or more persons, firms or corporations, have been assessed together in one assessment, shall not invalidate the same or the lien thereof, or any claim of personal liability thereunder. The cost of any such improvement assessed against any property or owner thereof, together with all costs and reasonable expense in collecting the same, including reasonable attorney's fees when incurred, shall constitute a personal claim against such property owner, and shall be secured by a lien on such property superior to all other liens, claims or titles, except city, county and State taxes, and such personal liability and lien may be enforced either by suit in any court of competent jurisdiction, or by sale in the same manner, as far as applicable, as sales are authorized to be made by the City of Dallas for the non-payment of taxes; provided, that it shall not be necessary to sell at the same time as for delinquent ad valorem taxes; and the Board of Commissioners may, by resolution or ordinance, make such rules and regulations, not inconsistent with law, as may be deemed necessary to provide for the speedy collection of such assessments for improvements. Any error or omission in de-

scribing property or designating the names of owners, or any other error or omission, may be corrected at any time by the Board of Commissioners or at the suit of any interested party. In any suit brought under the provisions of this section, it shall be proper to join as defendants two or more property owners who are interested in any single improvement or any single contract for such improvement; the person or persons who own property at the date of any ordinance providing for the assessment thereof, shall be severally and personally liable for their respective portions of the said assessment.

(j) At any time within ten days after the hearing herein provided for has been concluded, any person or persons, corporation or corporations, having an interest in any real estate which may be subject to assessment under this act, or otherwise, having any financial interest in such improvement or improvements, or in the manner in which the cost thereof is to be paid, who may desire to contest on any ground the validity of any proceeding that may have been had with reference to the making of such improvements or the validity in whole or in part of any assessment or lien or personal liability fixed by said proceedings, may institute for that purpose in any court of competent jurisdiction. Any person or persons, corporation or corporations who shall fail to institute such suit in said period of ten days, or who shall fail to diligently prosecute such suit in good faith to final judgment, shall be forever barred from making any such contest or contests, and this estoppel shall bind their heirs, successors, administrators and assigns. The City of Dallas and the person or persons to whom the contract has been awarded shall be made defendants in such suit, and any other proper parties may be joined therein.

There shall be attached to plaintiff's petition an affidavit of the truth of the matters therein alleged, except such matters as are alleged on information and belief, and that said suit is brought in good faith and not to injure or delay the city or the contractor or any owner of real estate abutting on the improvement. Unless the provisions of this section are complied with by plaintiff or plaintiffs, such suit shall be dismissed on motion of any defendant, and in that event plaintiff or plaintiffs shall be barred and estopped to the same extent as if suit had not been brought. In any case where a suit is brought as above provided in this section, then the performance of the work may be suspended at the election of either the city or the contractors until such suit shall be finally determined in the court of original jurisdiction or any appellate court to which the same may be taken by appeal or writ of error; provided, that any appeal or writ of error shall be perfected within thirty days from the adjournment of

the term of court of original jurisdiction at which final judgment was rendered in such suit; and provided, that no appeal or writ of error to review the judgment of said court may thereafter be taken or sued out by either party; and provided, that any such suit shall be entitled to precedence in the courts of this State, both of original and appellate jurisdiction, and shall be heard and determined as promptly as practicable, and to that end either party thereto may move for an early hearing.

(k) When the Board of Commissioners shall have reason to believe that the owner or owners of any property may successfully claim the same as exempted from special assessment, said Board of Commissioners may order that the improvement shall not be made in front of or abutting on, said property, unless the owner or owners shall first make satisfactory provision for, or satisfactorily secure, the payment of the amount of the costs which would be assessed against said property except for said exemption. In any case where the cost, or part thereof, is to be paid by such property owners or assessed against their property and the contractor to whom the work is let is required to look primarily or wholly to such property or owners thereof for payment of the proportion of the cost of such improvement assessed against them, and the city is relieved from the payment of such proportion of the cost, and such contractor shall not be obliged to make such improvements of any property which is exempt from the enforcement of a lien for such improvement, but may omit the construction thereof in front of such property.

(l) Subject to the provisions hereof, the Board of Commissioners may, when deemed just and proper, order improvements to be made on only one side of a public highway or highways, or section or portion thereof, and may assess the cost, or a portion thereof, against the property and owners of property abutting on said side of said highway or highways, or section or portion thereof.

(m) Whenever any error or mistake shall occur in any proceeding provided for by this act, it shall be the duty of the Board of Commissioners to correct the same, and whenever it shall have been finally determined in any suit that any assessment against any property or its owner, or lien against such property or claim of personal liability fixed or attempted to be fixed under the terms hereof, is, for any reason, invalid, unlawful or unenforceable, then it shall be the duty of the Board of Commissioners to at once proceed to re-assess against such property and the owners thereof such proportion of the costs of making such improvement as may be proper, lawful and just, and to fix a lien against

said property and declare the personal liability of the owner thereof, and said Board of Commissioners shall have power, and it shall be its duty, by ordinance or resolution, to adopt such rules and regulations and to make such orders as shall, in compliance with the law, provide for correcting said mistakes and making a valid re-assessment against said property and fixing a valid lien thereon, and a valid personal liability against the owner thereof; and said Board shall have power, and it shall be its duty to adopt such rules and regulations for a hearing to the owners of said property before said re-assessment, which may be necessary or proper in order to legally bind such owners and their property by said re-assessment; and shall have power to adopt all other rules and regulations which may be requisite to a valid re-assessment of such property or fixing a personal liability against the owners thereof.

(n) Subject to the terms hereof, the cost of any such improvement or improvements, after deducting the portion of such costs which may be assessed against any railroad or street railroad and the portion of such costs which may have been finally assessed against property abutting upon the highway or highways, or section or portion thereof, ordered to be improved, and against the owners of such property, shall be borne and paid by the city.

(o) In addition to the power hereby conferred upon the Board of Commissioners, by majority vote, to order the construction of any street improvement or improvements, as herein defined, and to assess the cost thereof, in whole or part, against the owners of abutting property; whenever the owners of two-thirds of the front feet of property abutting upon any highway or highways, or sections or part thereof, shall, in writing, petition for the improvement thereof; and shall, in said petition, agree to pay two-thirds of the cost of such improvements in front of their respective property, and of improving intersections of streets and alleys, exclusive of such cost as is payable under the terms hereof by railroads or street railroads, and shall generally designate the nature of the proposed improvements; the said board must order the construction of said improvements; provided, only that before a resolution ordering the said improvement shall be passed by the Board of Commissioners, it shall be satisfied, from the said petition or from such other evidence as may be submitted to it, that exclusive of the cost of the said improvement to be paid by railroads and street railroads, at least one-half of the whole cost of said proposed improvement can be secured by valid assessment against property abutting upon the public highway or highways, or section thereof to be improved, and the owners thereof, or will otherwise be satisfactorily secured. If said peti-

tion shall specify any particular kind of material or pavement desired by the petitioners, then the work shall be ordered constructed with that material or pavement only, and bids taken accordingly; provided, that in such cases the petition may stipulate the maximum cost per front foot, cubic or square yard, at which the work shall be let, and no contract shall be let at a greater cost than is thus stipulated. Where improvements are ordered to be made upon such petition as provided in this sub-section, the method of procedure with reference thereto and with reference to assessing the cost thereof against abutting property and the owners thereof, shall, subject to the special provisions of this sub-section o, be in accordance with the terms and provisions of this article. Where improvements are to be made upon such petition and as provided by this sub-section, the work shall not actually be begun until two-thirds of the cost of said improvement, exclusive of the part of the cost to be paid by railroads or street railroads, shall have been assessed against the property abutting upon the public highway or highways, or section thereof, to be improved, and against the owners of such property, in the manner hereinbefore provided in this section; provided, however, that no assessment shall be made, claim of personal liability fixed against any such property or the owners thereof, except after the hearing as hereinbefore provided, nor for a greater amount than the special benefit in enhanced value accruing to such property and its owners; and provided, that whenever, after such assessment, the Board of Commissioners shall be of the opinion that an assessment against any property and the lien thereby fixed can not be enforced on account of the exemption of such property, the Board of Commissioners may direct that such improvement shall not be made in front of such property, or may require the owner of such property to pay or secure the payment of the pro rata amount of said cost assessed against such property before such improvement shall be made in front of the same. Where improvements are made under the terms of this sub-section o, and the cost, or part thereof, is assessed against the abutting property or the owners thereof, the proportion of the cost assessed against them and their property shall be payable to the City of Dallas in ten annual installments, the first of which shall become due one year from the completion of said work, and its acceptance by the city; said installments shall bear interest as hereinbefore provided, at seven per cent per annum, and shall otherwise be subject to the provisions of this article as to similar assessments and the payment thereof. When improvements are made under the terms of this sub-section, the city may, out of the permanent street improvement fund herein-after defined, or out of any other fund which may be available,

pay to the contractor the whole cost of such improvement, subject to the terms of the contract or contracts entered into therefor, except such proportion of the cost as may be assessed against railroads or street railroads as herein provided; but two-thirds of said cost paid by the city and assessed against said property and the owners thereof, or secured by them to the city, shall be repaid by such owners to the city in installments and with interest as herein set forth; provided, that any property owner may pay the whole amount assessed against him and his property in cash to the city at any time. Such payments shall become a part of, and sacredly preserved in, said street improvement fund, but any part of said fund may be used and invested and re-invested by the city for making other permanent street improvements, provided, that sums so used or re-invested, shall be secured by assessments against property abutting upon such improvement and the owners thereof.

(p) Where public improvements are ordered to be made otherwise than upon such petition and in the manner set forth in sub-section (o) hereof, the cost, or part thereof, may be assessed against abutting property and its owners, as herein provided, and in such cases the Board of Commissioners may provide that for that part of the cost which may be assessed against such property and its owners, the contractor, to whom the work may be let, shall look only to such property owners and their property, and that the city shall be relieved of liability for such portion of the cost. The Board of Commissioners may also authorize assignable certificates against abutting property or property owners, or against persons, firms, or corporations using or occupying the public highways to be issued to the contractor or to the city and shall prescribe the form and terms of such certificate. The recital in such certificate that the proceedings with reference to making such improvements have been regularly had in compliance with the terms hereof, and that all prerequisites to the fixing of the lien and claim of personal liability evidenced by such certificate, have been performed, shall be prima facie evidence of the facts so recited, and no other proof thereof shall be required, but in all courts the said proceedings and prerequisites shall, without further proof, be presumed to have been had or performed. Such certificates shall be executed by the Mayor and attested by the City Secretary, or such other officer as may be designated by the Board of Commissioners, with the corporate seal.

(q) The city shall have power to borrow money on its credit, and the Board of Commissioners may by ordinance, authorize the issuance by the city of its negotiable coupon bonds for the purpose of making permanent street improvements as embraced in

the terms of this article. Such bonds shall bear interest at the rate of not more than five per cent per annum, payable in semi-annual installments, and the principal thereof shall be payable in not less than forty years from their date. Such bonds shall otherwise be issued and executed in accordance with the terms of this charter with reference to the issuance of other bonds; provided, that no such bonds shall be issued unless the question of such issue shall first be submitted to a vote of the qualified property taxpayers, and the same shall be approved at such election in accordance with the provisions of this act applicable thereto.

The city may, for the purpose of making permanent street improvements and providing for the interest and sinking fund of said bonds, levy an annual tax of twenty-five (.25) cents on each one hundred (100) dollars of taxable property within the city, provided the same shall first be approved by a majority of the qualified property taxpayers voting thereon at an election wherein the question of such levy is submitted to a vote of such taxpayers. Of such tax, so much as may be necessary, shall after such election and without any further submission to a vote of such taxpayers, be annually levied for the purpose of paying interest on, and providing for the sinking fund of, such bonds; and so much as may be necessary of the proceeds of said tax shall be applied to these purposes. The remainder of the proceeds of such tax shall, together with the special assessments collected by the city upon abutting property or its owners, for street improvements, become part of a special and sacred fund to be known as the Permanent Street Improvement Fund; which fund shall be used or advanced only for the payment of the cost, or part thereof, of any permanent street improvement constructed under the terms of this section. The Board of Commissioners shall have authority to sell the said bonds and apply the proceeds of the said sale to the purpose of making such permanent street improvements, but the said bonds shall not be sold for less than par. Such bonds shall not be sold by the city until approved by the Attorney General of the State and registered by the Comptroller in accordance with the provisions of this charter.

(r) Whereas, the City of Dallas has entered into contracts for the purpose of making sundry improvements, and may enter into other such contracts before this act shall take effect, under which contracts it is contemplated or may be provided that all or part of the cost of such improvements shall be assessed against property abutting upon the streets or highways upon which said improvements are to be made, and the owners thereof, and further procedure is or may be necessary to carry into effect such contracts and fully effect said assessments, and to provide for the collection thereof; therefore, notwithstanding the repeal

hereby of the existing charter of the City of Dallas, and its amendments, the said existing charter and amendments and the ordinances of said city shall remain in full force and effect for the purpose only of carrying into effect such contracts as have been or may be entered into under such existing charter and its amendments and the said ordinances; and the Board of Commissioners, created and authorized by this charter, are hereby authorized and directed, and it is hereby made their duty, to do and perform or cause to be done and performed all things which, by said existing charter and its amendments and the ordinances of said city, the City Council of said city, and officers thereof, acting thereunder, are now authorized or permitted to do in order to carry into effect the terms of said contracts and to assess the cost of improvements against such property and its owners, and to provide for the collection of said assessments, and to provide for the issuance of assignable certificates therefor; and to do and perform any other act or thing which may be necessary under the said existing charter and the amendments thereto and ordinances of said city to give effect to said contracts and to provide for the enforcement thereof.

(s) The passage by the Board of Commissioners of an ordinance finally assessing against any property, or the owner thereof, the cost, or part thereof, of any improvement, and fixing a lien upon such property, shall operate as notice of such assessment and lien as against all creditors of the owners of such property, and all purchasers thereof, and the lien thereby fixed shall, without further record or proceedings, be effective against such creditors or purchasers.

Sec. 2. The term "Sidewalk" as embraced in this article shall also include curbs. The City of Dallas, acting by its Board of Commissioners, is hereby empowered to construct, reconstruct, repair or cause to be constructed, reconstructed or repaired sidewalks upon or along any street or avenue or public place, square or alley, or any part or section thereof, within the said city; and to assess the whole cost of the said sidewalks or part of same against the property which shall abut or front thereon and the owners thereof, except the cost of excavation or grading, which shall be borne by the city.

(a) The power to construct, reconstruct or repair said sidewalks, or cause the same to be constructed, reconstructed or repaired, as provided in this section, and the procedure and methods herein provided, shall be exclusive of, and in addition to, such powers as are conferred and such procedure and methods as are set forth in Section 1 of this article and sub-sections thereunder.

(b) The Board of Commissioners shall have power, in their

discretion by resolution passed by a majority vote, to order the construction, reconstruction or repair of sidewalks, as herein provided, along or upon any street or avenue, public place, alley, or square, or part of section thereof within the city, or in front of any property abutting upon the same. No notice of the passage of said resolution shall be necessary. Such resolution shall, in general terms, describe the sidewalk ordered to be constructed, reconstructed or repaired, the materials of which it is to be constructed or repaired, and the street, avenue, alley, square or place, or part or section thereof, along which said sidewalk is to be constructed, reconstructed or repaired.

(c) Upon the passage of the said resolution, it shall be the duty of the City Engineer to forthwith prepare and present to the said Board of Commissioners specifications for the said sidewalks or repairs for same, detailing the manner of construction, reconstruction or repair thereof, and the material or materials of which the same is to be constructed, reconstructed or repaired. If satisfactory, the Board of Commissioners shall approve the said specifications and the same shall remain on file in the office of the City Engineer.

(d) Upon the approval of said specifications, the City Engineer shall at once prepare and file with said Board of Commissioners statement consisting of the name or names of the owner or owners of property abutting upon the street, avenue, alley, public place or square, or part or section thereof, where sidewalks are ordered to be constructed, reconstructed or repaired, and a brief description of the property of each owner, which may be by lot and block number, or any other description which shall be sufficient to identify the same, together with an estimate of the cost of the said sidewalk or the repair of same in front of the property of each owner, exclusive of the cost of grading and excavation. Upon the filing of said statement, it shall be the duty of the City Secretary, or such other officer as may be designated by the Board of Commissioners, to publish in a daily newspaper of general circulation within the City of Dallas a notice to the owner or owners of property in front of which said sidewalk or sidewalks are to be constructed, reconstructed or repaired, which notice shall briefly recite the fact that sidewalks have been ordered to be constructed, reconstructed or repaired by the Board of Commissioners, and state the street, avenue, alley, place or square, or section or part thereof, along which the same are ordered to be constructed, reconstructed or repaired, and that plans and specifications for such work have been adopted by the Board of Commissioners and are on file in the office of the City Engineer, and notifying the owners of property abutting upon such pro-

posed sidewalk or sidewalks to construct, reconstruct or repair same in accordance with said resolution and specifications within thirty days from the publication of the said notice.

The Board of Commissioners shall have power to adopt rules and regulations for giving additional notice to the owner or owners of such property in such manner as may be by said Board of Commissioners prescribed, or for personal service of notice upon property owners, but any such notice shall be in addition to, and cumulative of, the advertisement above provided for, and service of notice by such advertisement shall be deemed sufficient without further or additional notice.

(e) The owner or owners of property abutting upon the street, avenue, public alley, place or square, or part or section thereof, along which sidewalks are ordered to be constructed, reconstructed or repaired, shall, within thirty days from the publication of such notice, construct, reconstruct or repair the said sidewalks in accordance with such specifications, at his or their own cost and expense, except the cost of excavating and grading, which shall be borne by the city.

(f) The failure of any owner or owners of property in front of whose property sidewalks have been ordered to be constructed, reconstructed or repaired, under the terms hereof, to construct, reconstruct or repair the same as herein provided, within thirty days from the giving of the said notice, is hereby declared to be a public nuisance, and the city, acting by its Board of Commissioners, is hereby authorized, by ordinance, to declare the failure to so construct, reconstruct or repair such sidewalks an offense against the criminal ordinances of said city, and to declare each day wherein the owner of such property shall neglect to so construct, reconstruct or repair said sidewalk after said thirty days a separate offense, and to impose a penalty for such offense by fine upon conviction in the corporation court not exceeding one hundred (\$100) dollars.

(g) If the owner or owners of any property in front of which sidewalks are ordered to be constructed, reconstructed or repaired, under the terms hereof, shall not, within thirty days from the publication of said notice, have so constructed, reconstructed or repaired said sidewalk, the Board of Commissioners shall have power, by resolution, and it shall be their duty, to order their construction, reconstruction or repair by the city, and to cause the same to be constructed, reconstructed or repaired either direct by the city or to let the work of construction, reconstruction, or repairing the same by contract under such rules and regulations as may be adopted by the Board of Commissioners, and with or without competitive bidding, at the discretion of the Board of Commissioners.

(h) Whenever the city shall have constructed, reconstructed or repaired, or caused to be constructed, reconstructed or repaired any sidewalk, as herein provided, the Board of Commissioners shall have power to assess the whole cost thereof, except the cost of excavation and grading, which shall be borne by the city, against the property abutting upon the street, avenue, alley, place or square, upon which sidewalks shall have been constructed, reconstructed or repaired, and the owner or owners thereof; provided that no assessment shall be made against any property, or its owner or owners, or personal liability declared unless the said property shall be specifically benefited by the construction, reconstruction or repair of the said sidewalk, nor for any sum in excess of the special benefit in enhanced value which shall accrue to the said property and its owner from the construction, reconstruction or repair of the said sidewalk. When such sidewalk is ordered to be constructed, reconstructed or repaired in front of the property of one owner, subject to the terms hereof, the cost of such sidewalk shall be assessed against such property, and the owner thereof. Where sidewalks are ordered to be constructed, reconstructed or repaired in front of the property of more than one owner, or in front of more than one lot along any street, public alley, square or place, or part or section thereof, the cost of construction, reconstruction or repair of the said sidewalk in front of the property of each owner shall be assessed against such owner and his property separately and a separate liability against such owner declared.

(i) No assessment for the cost of such sidewalk shall be made against any property or its owner, until the Board of Commissioners shall have first so declared, by resolution, directing notice thereof to be given to the owner or owners of such property. Said notice shall be given by advertising the same in a daily newspaper of general circulation in the City of Dallas for three consecutive days, and also by mailing to said owner or owners a copy of said notice by registered letter deposited in the post office of Dallas, directed to the address of said owner, if known, but if the address of any owner be not known, then to the agent or attorney of such owner, if known; provided, that the letters aforesaid shall be deposited in the post office not less than five days prior to the date set for the hearing hereinafter mentioned; and provided, further that the method herein prescribed for service or notice by registered letter shall be merely cumulative of the service of notice by publication above mentioned; and provided, that in all cases where personal service by letter shall not be obtained, the service by publication shall be deemed valid and binding. The

notice aforesaid shall state the time of the hearing hereinafter mentioned, the general character of the sidewalk ordered to be constructed, reconstructed or repaired, the street, avenue, public alley, square or place, or part or section thereof, along which the same has been constructed, reconstructed or repaired, and that the cost of the said work is proposed to be assessed against the owner or owners of property abutting thereon, and the date set for the hearing. Said hearing shall be not less than one week from the date of the first publication of the said notice. On the date stated in the notice aforesaid, or at any time thereafter, before any assessment is actually levied, any person or corporation interested in any property which may be claimed to be subject to assessment for the purpose of paying the cost of said sidewalks, or any other objection thereto. Such objection shall be entitled to a full and fair hearing before the Board of Commissioners as to all matters affecting said property or the benefits thereto, of such construction, reconstruction or repair of such sidewalk, or as to any personal liability therefor, or as to any irregularity or invalidity in the proceedings with reference to constructing, reconstructing or repairing said sidewalks, or any other objection thereto. Such objection shall be filed in writing specifying the nature thereof, and full opportunity shall be given to the person or corporation filing the same to produce evidence, subpoena witnesses, and to appear in person or by attorney, and a full and fair hearing thereof shall be given by the said board; which hearing may be adjourned from time to time without further notice.

The Board of Commissioners shall have power to inquire into and determine all facts necessary to the adjudication of such objections and the ascertainment of special benefits to the owners by means of the construction, reconstruction or repair of such sidewalk, and shall render such judgment or order in each case as may be just and proper.

Any objection to the regularity of proceedings with reference to the construction, reconstruction or repair of such sidewalk, or to the validity of any assessment, or the determination of personal liability against such property or its owners, shall be deemed waived unless presented at the time and in the manner herein specified.

(j) When the hearing above mentioned has been concluded, the Board of Commissioners shall, by ordinance, assess against the owner or owners of property, or against their property abutting upon the sidewalks so constructed, reconstructed or repaired, the cost of constructing, reconstructing or repairing such sidewalk in front of the property of each owner and adjudge and declare a personal liability against such owner

or owner thereof, if it shall have been determined by the board upon such hearing that said owner or owners and their property have been benefited in the enhanced value of said property in an amount at least equal to such cost; but if, in any case, it shall have been determined on such hearing that the property of any owner is not benefited in enhanced value by such construction, reconstruction or repair of such sidewalk, then no assessment shall be made against the property of such owner; or if, after such hearing, it shall be determined by said board that said property has been benefited in enhanced value in any amount less than the cost of the construction, reconstruction or repair thereof, then said Board of Commissioners shall assess against said owner and his property only such amount as shall equal the benefit received by such owner and his property. The ordinance making the said assessment shall fix a lien upon the property of each owner or owners and declare the owner or owners thereof to be personally liable for the respective amounts which may be against them assessed; and shall state the time at which the said assessments shall be paid, which shall not be longer than thirty days from the date of making the same. Such assessment shall bear interest from the date of making the same until paid at the rate of eight per cent per annum.

(k) The amount assessed under the terms hereof against any property, or owner thereof, shall be secured by a lien upon said property, and shall constitute a personal liability against the owner or owners thereof in favor of the City of Dallas, and the said liability and lien may be enforced either by suit in any court of competent jurisdiction, or by sale of such property of said owner or owners, in the manner provided by law and this charter for the sale of property for other taxes. Said assessment shall include all costs and expenses of collecting the same where such costs are incurred, including reasonable attorney's fees where such attorney's fees are incurred. In all cases where sale of any property shall be made for non-payment of such assessment or assessments in the manner provided for the sale of property for non-payment of other taxes, such sale shall be made by the Tax Collector of the City of Dallas, or such other officer as may be designated by the Board of Commissioners, and the deed executed by said Tax Collector, or such other officer as may be designated by the Board of Commissioners, and the recital in the deed of such Tax Collector, or such other officer as may be designated by the Board of Commissioners, that all legal pre-requisites to said sale have been complied with, shall be prima facie evidence of the truth of the facts so recited, which facts shall, in all courts of law and equity, be presumed to be true without further evidence

thereof. The Board of Commissioners may, at its discretion, provide that assignable certificates be issued for the amount of such assessment, and shall have power to prescribe the form and terms of said certificates. Said certificates may recite that all legal pre-requisites to said assessment and the fixing of a lien upon said property have been complied with, which recital shall be prima facie evidence of the truth of the facts so recited, and without further proof said facts shall be presumed.

(1) Any person, firm or corporation having any interest in said property upon which said assessments shall have been made, shall have the right to contest the same or the validity thereof or the regularity of any proceeding with reference to the said assessment or the special benefit received by the owner of any such property by filing suit in any court having jurisdiction thereof, in which suit the City of Dallas shall be defendant and any other proper party may be made defendant; provided, that such suit shall be brought within ten days from the date of the passage of the ordinance making such assessment upon such property, and if not so brought then, the owner or other person or corporation having an interest in said property shall thereafter be barred and estopped to question the validity thereof; and this bar and estoppel shall apply to the heirs, assigns, successors and personal representatives of such person or corporation.

ARTICLE XI.

Public Utilities.

1. No street, alley or public highway in the City of Dallas shall ever be used by any person, firm or corporation for the construction or operation of a street railway, telegraph line, telephone system, electric light and power system, gas works, water works, sewer system or any other business of a public or quasi public nature, without obtaining authority therefor under a franchise granted by the Board of Commissioners, in accordance with the provisions of this act. It shall be the duty of the Board of Commissioners and the City Attorney to bring suit to enforce this provision against any person, firm or corporation violating the terms thereof, for the purpose of ejecting the offender from the occupancy of such property, and to recover damages for the illegal use thereof.

2. The City of Dallas shall have the exclusive right to erect, own, maintain and operate water works for the use of said city and its inhabitants, and to regulate the same, but shall not have the power or right to sell said water works

system. It shall have power to prescribe rates for water furnished to said inhabitants, and to make such rules and regulations as the Board of Commissioners may deem expedient; to acquire by purchase or donation suitable grounds on which to erect such works, and necessary right of way and to do anything whatsoever necessary to operate and maintain said works, and to compel the owners of all property and the agents of such owners to pay all charges for water furnished upon such property.

All receipts and revenues from the water works shall constitute a separate and sacred fund, which shall never be diverted or drawn upon for any other purposes than the extension, improvement, operation, maintenance, repair and betterment of the water works and water supply; and sewer system of the city and for the purpose of constructing and extending lateral sewers in the sanitary sewer system of the city; but the Board of Commissioners may appropriate or pledge such receipts and revenues for the purpose of extending, improving, operating, maintaining and bettering the water works plant and mains and supply, and for constructing and extending lateral sewers, and also for the purpose of discharging or retiring the indebtedness of the city that may be incurred or accrued for water works purposes.

3. At the first general election to be held under this act, for the election of a Board of Commissioners, there shall be submitted to a vote of the qualified electors who are taxpayers in said city the questions whether or not the Board of Commissioners shall be empowered to issue bonds of said city in the amount of five hundred thousand dollars (\$500,000), the proceeds of which shall be used for the betterment and extension of the water works system belonging to the city and bonds of the city in the amount of one hundred thousand dollars (\$100,000), the proceeds of which shall be used for street improvements, in accordance with the provisions of Article 10 hereof, and bonds of the city in the amount of \$50,000, the proceeds of which shall be used for the erection of public school buildings; also whether a special tax of twenty-five cents on the one hundred dollars (\$100) of taxable property shall be levied for street improvement purposes. A separate ballot shall be used at said election which shall contain the following words:

"Special Bond and Tax Election."

"For the issue of bonds in the sum of five hundred thousand dollars (\$500,000) for the improvement of the water works."

"Against the issue of bonds in the sum of five hundred thou-

sand dollars (\$500,000) for the improvement of the water works."

"For the issue of bonds in the sum of one hundred thousand dollars (\$100,000) for street improvements."

"Against the issue of bonds in the sum of one hundred thousand dollars (\$100,000) for street improvements."

"For a special tax of twenty-five cents on the one hundred dollars (\$100) for street improvements."

"Against special tax of twenty-five cents on the one hundred dollars (\$100) for street improvements."

"For the issue of bonds in the sum of fifty thousand (\$50,000) dollars for public school buildings."

"Against the issue of bonds in the sum of fifty thousand (\$50,000) dollars for public school buildings."

In the event either or all of said proposed bond issues shall receive the affirmative vote of a majority of those who shall vote thereon, the Board of Commissioners shall, as soon as practicable, cause to be issued and shall sell, in accordance with said vote or votes, coupon bonds of said city, to bear interest not to exceed six per cent per annum, payable semi-annually at such places as may be designated by city ordinance, and shall appropriate and use the proceeds of such bond issue or issues in accordance with the result of said special election; provided, that such bonds shall be issued in compliance with provisions of Article 2, Section 2, of this act, and the several subdivisions of said section.

If said proposed tax levy of twenty-five cents on the one hundred dollars (\$100) of taxable property shall receive a majority of the votes of those voting thereon, the Board of Commissioners shall levy a special tax of twenty-five cents on the one hundred dollars (\$100) of all taxable property, the proceeds of which shall be used for making street improvements, and to provide a sinking fund for street improvement bonds in accordance with the provisions of Article X hereof.

4. The Board of Commissioners shall have power, by ordinance, to provide for and construct a general sewer and drainage system, to be divided into public and private sewers and drains, and to be constructed, maintained and regulated in such manner and out of such material as the Board of Commissioners may prescribe. Sewers may be established as the Board of Commissioners may direct, and there may be extension of branches and sewers already constructed or entirely new throughout, as may be deemed expedient. The Board of Com-

missioners may, if necessary, levy a tax on all taxable property in the entire city, to pay for the construction and repairs of such public sewers which shall be called a "special sewer tax," and shall be used solely for such purpose. No public sewer shall be run diagonally through private property when it is practicable, without injury to said sewer, to construct it parallel with one of the exterior lines of such property. No public sewer shall be constructed through private property when it is practicable to construct it along or through a street or public highway.

5. The Board of Commissioners shall have the power to appropriate private property for public purposes whenever the Board of Commissioners of said city shall deem it necessary to take any private property either within or without the city limits, for any of the following purposes, to-wit: In order to open, change or widen any public street, avenue or alley, or for the construction of water mains, or for the purpose of constructing or extending sanitary sewers, or erecting and constructing a sanitary sewerage disposal plant or system for the purpose of disposing of the sanitary sewerage of the city either within or without the city limits, or for the improvement and enlargement of the water works, including water supply, riparian rights, standpipes, watersheds, the construction of supply reservoirs, or the construction, building, erection or establishment of any necessary appurtenance or facility which will furnish the inhabitants of the city of Dallas with an abundant supply of wholesome water, etc., within or without the city limits of the city of Dallas, or for public schools, industrial schools, parks, squares and pleasure grounds, public wharves and landing place for steamers and other crafts, or for the straightening or improving of the channel of any stream, branch or drain, such property may be taken for such purpose, by making just compensation to the owner thereof. If the amount of such compensation shall not be agreed upon, it shall be the duty of the Board of Commissioners to cause to be stated in writing, the real estate or property sought to be taken, the name of the owner thereof, and his residence, if known, and the purpose for which said property is sought to be taken, and file such statement with the Judge of the County Court of Dallas County, at law, or the Judge of the Court having jurisdiction by law, to act in condemnation proceedings for railroad rights of way, in said county at the time of such proceeding. Upon the filing of such statement, it shall be the duty of such Judge in term time or vacation, to appoint three disinterested freeholders, and qualified voters of the County of Dallas, as special commissioners, to assess the damages to accrue to the owners by

reason of such condemnation. The special commissioners so appointed shall, in their proceedings, be governed and controlled by the State laws in force in reference to the condemnation of right of way for railroad companies and the assessment of damages therefor, the City of Dallas occupying the position of the railroad company. And all laws in reference to the applications for the condemnation of right of way of railroad companies, including the measure of damages, the right of appeal, and the like, shall apply to an application to the City of Dallas, under this charter for condemnation of property for the aforesaid purposes, unless otherwise provided herein; the City of Dallas to occupy the position of the railroad company.

In estimating the damages to such property, the jury shall not only estimate the value of the land so taken, but they shall also estimate the damage done to the remainder of any land from which it is taken by reason of such taking and use; provided, however, that in case of condemnation of land for the opening, extending, widening of any street, or for straightening or improving of the channel of any stream, branch or drain, within the corporate limits of the said city, the Board of Commissioners may, by ordinance, provide that the cost of such property shall be paid for by the property owners owning property in the immediate vicinity thereof, and benefited thereby. In such cases the City Engineer shall, under the direction of the special commissioners appointed, make a plat of the property which in the judgment of said special commissioners, will be specifically benefitted and enhanced in value by the making of such improvements, whereupon such special commissioners shall issue notice to the owners of such property to appear before them at a time and place to be designated in such notices to show cause, if any, they may have, why such property should not be assessed to pay the cost of the property so condemned: such notices may be served by any police officer in the city of Dallas, or any other officer of the State of Texas, County of Dallas, authorized by the laws of said State to serve process of the courts of said State; and in all cases where such owner or owners, or any of them are absent from said city and county, upon the agent of such absent owner, if such owner shall have an agent, in said city or county, and in case such absent owner shall not have such agent, or in case the owner of such property is unknown, then such notice shall be published for two days consecutively in some newspaper published in the city of Dallas; such notice shall be given five full days before the final determination by the special commissioners of the amount of assessment against the owner of such property for such improvement; said special commissioners shall determine the

value of the property desired to be taken, belonging to the different owners thereof, if there be more than one such owner, and if there be only one such owner, the value of the same and shall also find how much of the cost thereof shall be assessed against the owner of each lot or subdivision of the land in the immediate vicinity thereof, specially benefitted and enhanced in value by making of such improvements, and shall report all such matters to the Board of Commissioners of the City of Dallas, showing a description of the property taken and condemned and the name of the owner thereof, if known, and if the owner of any such property is unknown, shall state said fact, or if there be more than one owner of such property, then the description of the property of each of said owners, if known, and if unknown, shall state such fact and the value of the property of each such owner so condemned, and also the description and name of the owner of each subdivision of property if known, and if unknown, shall so state, describing such property so as to identify it against which special assessment should, in the judgment of said board, be made to pay for such property condemned, such apportionment shall be made according to the benefits that will, in the judgment of said special commissioners, be received by or accrued to such lot or subdivision of property by reason of the making of such improvements herein. Such report shall be signed by a majority of such special commissioners, and shall be filed with the City Secretary for the consideration of the Board of Commissioners. The Board of Commissioners shall as soon as practicable after the filing of such report, consider the same and if the same is approved by a majority vote of the members present at the meeting, at which it considers the same, the same shall be final and binding upon the city and all parties at interest therein. If the Board of Commissioners shall approve said report, it shall levy a special tax against the property shown by said report to be benefitted and enhanced in value by such improvements, according to the recommendation made in such report; such taxes shall be a lien on the property against which the same shall be assessed, from the date of such levy and shall become due and delinquent at the time provided in the ordinance levying the same. If the same shall not be paid as provided in such ordinance, the City Assessor and Collector of Taxes shall proceed to collect same as provided in the ordinance, levying same by the advertisement and sale as provided in the City Charter in cases of the sale of such property for delinquent ad valorem taxes; provided that it shall not be necessary to make such sales at the time as provided for in the sale of property for delinquent ad valorem taxes. The special commissioners ap

pointed under the provisions of this section shall have the same power to issue writs and subpoenas and compel the attendance of witnesses, etc., as commissioners appointed for the condemnation of land, etc., for the right of way of railroads, under the general laws of the State of Texas, have; shall receive the same compensation for their services and shall be governed in all respects not herein otherwise provided by general laws in all matters relating to their procedure. The compensation for the land and property taken or damaged under the provisions of this section shall be paid to the owner of such property so taken or damaged, or secured by deposit set apart in money in the hands of the City Treasurer, subject to the order of such owner before such property is taken or damaged, provided the city may make such payment out of the general fund, if the Board of Commissioners shall deem it advisable and when the amounts assessed against the property specially benefitted as herein provided, are collected, may repay to the said general fund the amount so advanced, and such payment shall not be a waiver of the city's rights to make such collections. (Amendment of 1909.)

6. The Board of Commissioners shall have power to cause telegraph, telephone and electric light companies to change the location of their poles; also to cause all erected poles not in use to be taken down and removed. If such companies shall fail to do such things after being notified, the city may have the same done at the expense of such companies. The Board of Commissioners shall also have the power to require telegraph, telephone companies and electric light companies to run their wires under the ground, if, in the wisdom of the board, public interest should so demand.

7. Any person, firm or corporation holding any franchise heretofore or hereafter granted by the city, authorizing the use or occupation for any purpose of any street, avenue or alley in the city, or any portion thereof, and requiring or binding the person, firm or corporation holding such franchise to keep any portion of such street, avenue or alley so used or occupied, or the pavement thereof in repair, or to maintain the same in condition for public travel; or any person, firm or corporation who, under any contract heretofore or hereafter made with the city for the construction, reconstruction or repair of the pavement or other improvement of any avenue, street or alley, or any portion thereof, shall be or is bound to keep the same in repair or in good condition for public travel, or to do or to perform any duty relating to the maintenance or repair of such pavement or other improvement, for any term of years men-

tioned in such contract, who shall be served with a written notice signed by any owner or owners of property abutting such street, avenue or alley, or such portion thereof, such notice to be so served by delivering in person, or by mailing same by registered mail to such person, firm or corporation, or any officer or agent thereof, at the post-office address of his residence, and who shall fail or refuse to repair or place in condition for travel according to the terms or requirements of such franchise or contract the portion of such avenue, street or alley mentioned in such notice, which such person, firm or corporation is bound to repair or maintain, within ninety days after the date of the service of such notice, shall forfeit to the city the sum of \$50 for each day after the expiration of said ninety days until said avenue, street or alley or portion thereof mentioned in said notice, and which such person, firm or corporation is bound to repair or maintain, is repaired and put in good condition for public travel, as required by the terms of such franchise or contract, or until the requirements and terms of such contract are complied with, such sum or sums to be recoverable at the suit of the city or at the suit of any owner of property abutting said avenue, street or alley, or portion thereof, to the use of the city, in any court of competent jurisdiction. The penalty herein provided shall be in addition to and cumulative of any other penalty, condition or requirement contained in such franchise or contract. In any suit brought under this section any judgment therein recovered may be made a lien upon any sum held by or deposited with the city, or in trust, to guarantee or secure the performance of the conditions of any such franchise or contract.

8. Whenever any franchise to any person, firm or corporation has heretofore been made, or shall hereafter be made or granted by the Board of Commissioners for the use of any street of the city for the purpose or for the exercise of any public privilege or advantage, and the said grant has been or shall hereafter be made upon any conditions named in said grant of things to be performed by the said grantee, and such grant shall contain no condition of forfeiture, yet the breach of any condition so named in any such grant, or any failure on the part of said grantee to promptly pay any tax whatever assessed by the city, shall be or cause a forfeiture of the said franchise or privilege so granted, as if expressly stipulated for therein, and wherever any such grant has been or shall hereafter be made in consideration of the payment of any bonus, the said payment shall be secured by a prior lien on all property of said grantee, within the city, whether expressly stipulated for or not, and any failure to promptly pay such bonus according to the

terms of the grant, or any failure to pay any tax of any kind, shall be a cause of forfeiture of the franchise or privileges granted, whether such forfeiture be expressly provided for or not.

ARTICLE XII.

Saloon Limits and Restrictions.

1. It shall be unlawful, except as hereinafter provided, to locate, establish, maintain or conduct a saloon, as hereinafter defined, within the corporate limits of the City of Dallas as now or as they may hereafter be established, outside of the limits bounded as follows:

Said prohibited limits not to include, however, the frontage on either side of the streets hereafter named as constituting the boundary of said prescribed limits:

Beginning at the Trinity River where Payne Street, if extended, would intersect; thence on Payne Street to Alamo Street; thence on Alamo Street to Burk Street; thence of Burk Street to Caroline Street; thence on Caroline Street to McKinney Avenue; thence on McKinney Avenue to Orange; thence on Orange, if extended, to Patterson Avenue; then on Patterson Avenue, to Bullington Street; thence on Bullington Street to Bryan Street; thence on Bryan Street to Hall Street; thence on Hall Street to Live Oak Street; thence on Live Oak Street to Cantegral Street; thence on Cantegral Street to the Texas and Pacific Railroad; thence on the Texas and Pacific Railroad to Smith Street; thence on Smith Street to First Avenue; thence on First Avenue to Commerce Street; thence on Commerce Street to S. Pearl Street; then on S. Pearl to Cabell Street; thence on Cabell Street to S. Harwood Street; thence on S. Harwood Street to Marilla Street; thence on Marilla Street to Veal Street; thence on Veal Street to Wood Street; thence on Wood Street to Santa Fe Railroad tracks; thence with the Santa Fe Railroad tracks to Young Street; thence on Young Street to Poydras Street; thence on Poydras Street to a point where Poydras Street would intersect line drawn through center of block 156; thence west parallel with Commerce Street through the center of blocks 56, 49, 42, 33, 23, 13, 5 and 414 to the Trinity River; thence with the Trinity River to the place of beginning; provided, the public park known as the grounds of the Texas State Fair heretofore purchased by the city and now maintained as a public park is not and shall not be construed to be included within such prohibited limits, and the sale of intoxicating liquors upon the grounds and territory so purchased and maintained by the city shall be lawful when license shall be duly obtained therefor, together with the consent of the city authori-

ties in control of such park. Provided, further, that said Board of Commissioners shall never have power to authorize the establishment and maintenance of saloons in that territory, heretofore annexed to the City of Dallas and known as the territory of Oak Cliff.

Provided, further, that should the City of Dallas set aside any defined territory upon which to colonize and segregate prostitutes, as is provided for in another section of this charter, in said territory so designated there shall never be established any saloon as the same is hereinbefore defined, nor shall spirituous, vinous or malt or intoxicating liquors of any kind whatever be sold within said designated territory.

All saloons shall close their doors and places of business and transact no business at such places from 12 o'clock midnight until 5 o'clock a. m. of each week day and shall remain closed and transact no business at such places from 12 o'clock midnight Saturday until 5 o'clock a. m. of the following Monday of each week. It shall be the duty of the proprietor of each saloon, or his agent, to keep posted in a conspicuous place therein, by the side of the Federal license under which said saloon is conducted, the licenses obtained by him from the State, county and city, and to write or print, in large letters, underneath said licenses the following words:

"City license expires.....day of.....(inserting the time of the expiration of the last of such licenses so obtained and held by him.) If any owner or keeper of any saloon shall be convicted in any court for a violation of any provisions of this charter or of any offense against any law of this State, regulating or affecting the sale of intoxicating liquors, such conviction shall operate to forfeit the license under which such saloon is being operated, and the unearned portion thereof shall not be refunded, and all right to conduct such business thereunder shall be revoked by the Board of Commissioners, and thereafter no license for such purpose shall be issued by the city to such offending party for a period of two years. It shall be the duty of the Board of Commissioners to hear any complaints that may be preferred against the proprietor of any saloon, or his agent, touching the method of operating such saloon or any matters relating thereto, and if, upon such hearing, such complaint shall appear to be well founded, the Board of Commissioners, shall have power to make such orders and decrees with respect to such matters as it may deem necessary and it shall have power to enforce such orders under adequate penalties, and to revoke the saloon license of any person who may fail or refuse to comply therewith. The Board of Commissioners shall have power to enact

all such ordinances and to enforce such penalties as may be necessary to give effect to the foregoing provision.

2. No person shall establish, locate or maintain any saloon, being a place where intoxicating liquors shall be sold within the above prescribed limits, without first having obtained the license or tax receipt from the Board of Commissioners as is provided by the general law to be issued by cities to persons engaged in such business, and paying therefor the amount of license fees or tax, as is provided by the general law to be charged by cities; provided, however, that no such license shall ever be issued to any person applying for same, unless such person shall make application in writing for such license, and set forth in such application the exact place where the proposed saloon is to be located, and show by a map or other evidence that there are not more residences than there are business houses within a radius of three hundred (300) feet from the center of such proposed saloon. If upon examination of such application the Board of Commissioners are satisfied that there exist more business houses than residences within the radius as hereinabove prescribed, and that the applicant for such license is a person of good moral character, such license shall be issued to the applicant; subject, however, to the hereinafter stated conditions, the failure to observe any one of which shall authorize the Board of Commissioners to forfeit and revoke any license granted hereunder, viz:

First. That said person so obtaining said license shall, at all times, conduct said saloon in strict accordance with the conditions of the liquor dealers' bond, which is required by the State law to be executed by such person.

Second. That such person shall fully observe all of the laws of the State and city relating to the closing of said saloon on Sunday or other days prescribed by law.

Third. That said saloon shall be closed at 12 o'clock midnight every night, and shall remain closed till 5 a. m. every day during the week, save and except that said saloon shall close on Saturday night at 12 o'clock midnight, and remain closed till 5 o'clock Monday morning.

Fourth. That said person or his agent or employes shall not be found guilty in any court of competent jurisdiction of the violation of the Sunday law in connection with the saloon to which the license is herein issued or of selling intoxicating liquors to minors, or of permitting lewd or indecent women to resort to such saloon.

3. The license granted hereunder shall be granted for the period of one year, and shall not be transferred or assigned without the written permission of the Board of Commissioners, and in any such case, the person to whom such license is assigned or transferred shall present to the Board of Commissioners the same petition as is herein required of the person to whom said license was originally granted. Should it come to the knowledge of the said Board of Commissioners that the person to whom a license has been issued is violating any of the conditions hereinabove set forth, the Board of Commissioners shall issue a notice to such person to appear before said board on a date fixed in such notice, to then and there show cause why said license, so issued, should not be forfeited and revoked. Such person shall be required to respond to such notice, and may answer same in person or by his attorney, but if such person should fail or refuse to answer such notice by the time fixed therein, the Board of Commissioners may, if they deem it proper, revoke such license and such person shall thereafter be subject to the penalties hereinafter provided for, if he shall continue to maintain or conduct such saloon. Whenever any person shall appear in obedience to such notice, the Board of Commissioners shall investigate the charge against the said person, and if the Commissioners should conclude, after a full hearing thereof, that the person to whom such license was issued has violated any of the conditions hereinabove set forth they shall have the power to revoke and forfeit such license, and it shall thereafter be unlawful for such person to continue conducting such a saloon at said place. For the purpose of further investigating and examining into the question of whether the said licensee has violated any of the conditions as herein set forth, the said Board of Commissioners shall have full power and authority to compel the attendance of witnesses, and to punish said witnesses for contempt in the same manner as is prescribed by law for the County Judge to punish for contempt and shall also have power to administer oaths to witnesses.

All process shall be served by the Chief of Police or any police officer of the city, and be signed by the Mayor and the Secretary of the Board.

4. Any person conducting, locating or maintaining any saloon without first having obtained the license provided for, shall be subject to a fine of \$200 for each and every day that such saloon is conducted, maintained or established without a license.

5. After any such license issued to any person shall be

revoked or forfeited by said Board of Commissioners in the manner as herein prescribed, it shall be the duty of the said person to immediately discontinue the conduct of said saloon, and upon his failure to do so, he shall be subject to a fine in any sum not exceeding \$200 for each and every day that the said saloon is conducted and maintained after such license has been revoked and forfeited.

ARTICLE XIII.

Ordinances.

1. Every ordinance passed by the Board of Commissioners shall be enrolled by the Secretary or such other officer as may be selected by the Board within the next succeeding five days, Sundays excepted, or as soon thereafter as practicable. It shall then be carefully compared with the ordinance and all amendments, if any, by the City Attorney and at least one member of the Board of Commissioners who may be charged with that duty by the Board of Commissioners. If errors exist they shall be corrected. If no errors exist, or if found, then, after their correction, the Commissioner and City Attorney making the comparison shall endorse on the margin, the words "correctly enrolled," and give the date thereof and subscribe his name thereto. Every ordinance imposing any penalty, fine, imprisonment, or forfeiture for a violation of its provisions, shall, after the passage thereof, be published in every issue of the official newspaper for three days successively (excluding Sundays), and proof of such publication by the printer or publisher of such newspaper, made before any officer authorized to administer oaths, and filed with the Secretary of the Board of Commissioners, or any other competent proof of such publication shall, in all courts, be conclusive evidence of the legal publication and promulgation of such ordinances; provided, that amendments and corrections made in digesting and revision for publication in book form need not be so published. All ordinances, except as above provided, shall be published at least once in some newspaper in the City of Dallas, and shall take effect as provided in Section 1 of Article VIII of this Charter. All ordinances of the city, when printed and published and bearing on the title page thereof, "Ordained and published by the Board of Commissioners of the City of Dallas," or words of like import, shall be prima facie evidence of their authenticity, and shall be admitted and received in all courts and places without further proof.

2. The style of all ordinances shall be "Be it Ordained by

the Board of Commissioners of the City of Dallas," but such caption may be omitted when said ordinances are published in book form or are revised and digested under the order of the Board.

3. The Board of Commissioners shall have power to cause the ordinances of the city to be printed in code form, and shall have the same rearranged and digested as often as to the Board may seem advisable.

4. In all judicial proceedings it shall be sufficient to plead any ordinance by caption, or by the number of sections thereof wanted, and it shall not be necessary to plead the entire ordinance or section. All printed ordinances or codes of ordinances published by authority of the Board of Commissioners, shall be admitted in evidence and shall have the same force and effect as would the original ordinances.

5. All ordinances of a general nature shall be published at least once in some newspaper in the City of Dallas.

6. All ordinances, resolutions, rules and regulations now in force in the City of Dallas, and not in conflict herewith, shall remain in force under this act until altered, amended or repealed by the Board of Commissioners, after this act shall take effect.

7. All ordinances of the City of Dallas which may be invalid or defective, but which if passed under the provisions of this act, would be valid, are hereby validated as if passed under the provisions of this act.

ARTICLE XIV.

Miscellaneous Provisions.

1. The City of Dallas, acting through the Board of Commissioners, shall have power to do by day labor under municipal direction, any work which may become advisable, or necessary to be done.

2. In all work done by or for the city, either by day work or by contract, eight hours shall constitute a day's work; and no employe of the city on work for the city, or employe of any contractor or subcontractor of such work, shall be required to work longer than eight hours in any one calendar day; provided, that this section shall not apply to the fire or police department or to employes engaged in clerical work for the city; and pro-

vided, further, that this section shall not be construed to apply to any contract entered into by the city prior to the passage of this act; provided, that in case of emergency, an employe may be required to work longer than eight hours, but when so required to work longer than eight hours, such employe shall be paid for such over-time at the rate of one and one-half times the rate such employe is paid for his labor during the eight hours.

3. All persons or corporations owning or holding personal property or real estate in the City of Dallas on the first day of January of each year shall be liable for all municipal taxes levied thereon for the fiscal year beginning the next following May.

4. The personal property of all persons owing any taxes to the City of Dallas is hereby made liable for all of said taxes, whether the same be due upon personal or real property, or upon both.

5. The Board of Commissioners shall have power to provide for taking an enumeration of the inhabitants of the city. And it shall be the duty of the Governor of the State whenever the Board of Commissioners shall by resolution so request to appoint a commissioner who shall supervise such enumeration, whose compensation, together with all the expenses of such enumeration, shall be paid in such manner as the Board of Commissioners may provide.

6. The Board of Commissioners shall not have the power or authority to sell, lease, or in any manner dispose of the city hospital, except by the consent of the majority of the qualified voters of the City of Dallas voting at an election held for such purpose.

7. No property of any kind—church, school or otherwise—in the City of Dallas shall be exempt from any of the special taxes and assessments authorized by this charter for local improvements.

8. The fiscal year of the City of Dallas shall begin and end at 12:01 o'clock, noon, on the first day of May in each year.

9. All bonds, contracts or other instruments requiring the assent of the city, shall be signed by the Mayor, or the acting Mayor, and all legal process against the city shall be served upon the Mayor, or acting Mayor.

10. In addition to the other modes of collection anywhere in this act provided, all taxes due the city, whether general or special, assessments for improvements or otherwise, may be

collected by an action of debt, and liens on real estate may be foreclosed in any court having jurisdiction. The assessment rolls relating to such taxes shall be taken as prima facie evidence of the statements made therein, and the city shall have authority to become the purchaser at all sales of property for taxes due it, under judgment or otherwise. It shall be the duty of the Mayor to attend such sales to make such purchases if they be necessary, or to empower some other person to do so on behalf of the city.

11. Before the City of Dallas shall be liable for damages of any kind the person injured, or some one in his behalf, shall give the Mayor or City Secretary notice in writing of such injury within thirty days after the same has been received, stating specifically in such notice when, where and how the injury occurred and the extent thereof. The City of Dallas shall never be liable on account of any damage or injury to person or property arising from or occasioned by any defect in any public street, highway or grounds or any public work of the city, unless the specific defect causing the damage or injury shall have been actually known to the Mayor or City Engineer by personal inspection for a period of at least twenty-four hours prior to the occurrence of the injury or damage, unless the attention of the Mayor or City Engineer shall have been called thereto by notice thereof in writing at least twenty-four hours prior to the occurrence of the injury or damage and proper diligence has not been used to rectify the defect after actually known or called to the attention of the Mayor or City Engineer as aforesaid.

12. It shall not be necessary in any action, suit, or proceeding in which the City of Dallas is a party, for any bond, undertaking or security to be executed in behalf of said city, but all such action, suits, appeals, or proceedings, shall be conducted in the same manner as if such bond, undertaking or security had been given, and said city shall be liable as if such obligation had been duly given and executed.

13. The property, real and personal, belonging to said city shall not be liable to be sold or appropriated under any writ of execution or cost bill, nor shall the funds belonging to said city, in the hands of any person be liable to garnishment on account of any debt it may owe or funds it may have on hand due any person, nor shall the city or any of its officers or agents be required to answer to any writ of garnishment on any account whatsoever, nor shall said city be liable to the assignee of any wages of any officer, agent or employe of said city, whether earned or unearned, upon any claim or account

whatsoever, and as to the city any such assignment shall be absolutely void.

14. Whenever, in the opinion of the Board of Commissioners, any buildings, fence, shed, awning or structure of any kind or part thereof, is liable to fall down and injure persons or property, the Board of Commissioners may order the owner or agent of same, or occupant of the premises, to take down and remove the same within such time as it may direct, and may punish by fine and imprisonment, or either, all persons failing so to do. The Board of Commissioners shall have the additional power to remove the same at the expense of the city on account of the owner of the property, and assess the expenses thereof, including condemnation proceedings, as a special tax against the land, and the same may be collected as other special taxes provided for in this charter, or by suit in any court of competent jurisdiction.

15. The Board of Commissioners shall have full power to condemn all dangerous buildings or obstructions of any kind and may provide regulations therefor by ordinance.

16. All writs, subpoenas, or other process, issuing out of the city court, shall run in the name of the City of Dallas, and may be executed and served by the Chief of Police or his deputies, or policemen of said city anywhere in Dallas County, Texas.

17. In all cases where, by any of the provisions of this act, or by ordinances in pursuance thereof, a person is required to obtain a license for any calling, occupation, business or vocation, and has, on complaint before the corporation court, been adjudged guilty of violating any rule, regulation or ordinance of the city in relation thereto, said court, in addition to the punishment to be imposed therefor, may suspend or revoke the license so granted.

18. The term "officer," as used in this charter, shall apply only to those officers who are elected by the people, or are appointed or confirmed by the Board of Commissioners for a fixed and definite period, and the same does not include policemen, except the Chief of Police, and does not include other agents or employes of said city. All city officers and employes shall enter into such bond for the faithful performance of their duties as the Board of Commissioners may require, by ordinance or resolution, and shall perform such other and further duties as the Board of Commissioners may from time to time prescribe.

19. All qualified electors of the State who shall have resided for six months immediately preceding the election within the

limits of said city shall have the right to vote for Mayor and all other elective officers of said city, but in all elections to determine the expenditure of money, or assumption of debt or levy special taxes, only those shall be qualified to vote who pay taxes on property in said city, such qualification to be ascertained by an inspection of the assessment rolls.

20. The Board of Commissioners shall have the right to remit, in whole or in part, any fine or penalty belonging to the city, which may be imposed under any ordinance, or resolution passed in pursuance of this act.

21. No lien of any kind can ever exist against the public school buildings, public halls, parks or public works of the City of Dallas. All sub-contractors, materialmen, mechanics and laborers upon any public works of the City of Dallas are hereby required to notify the city of all claims they may have on account of such work against the city, and when such notice has been given, the city shall retain an amount from any funds due the contractors, sufficient to satisfy all claims; provided, that such notice may be given at any time after such indebtedness becomes due and before final settlement; and provided, further, that no contractor or sub-contractor shall issue any time checks on or on account of any public works of said city.

22. The Board of Commissioners shall require good and sufficient bonds of all contractors, with at least two good and sufficient sureties, who shall be residents of the State of Texas. No non-residents of the State shall ever be received as surety on any bond payable to the City of Dallas, except such guarantee companies as may be satisfactory to the Board of Commissioners, and in all cases at least one of the sureties must be a resident of Dallas County, Texas. When bondsmen are not residents of Dallas County, such proof of their solvency may be required as the Board of Commissioners may deem necessary.

23. All appropriations made or set apart for the payment of any interest or sinking fund, or both, shall, under no circumstances, ever be diverted to any other purpose.

24. All questions arising in administering said city government, and not provided for in this act, shall be governed by the State law in such cases made and provided.

25. No office provided for in this act, not now already existing, shall be held to be created until the same is established by an ordinance of the Board of Commissioners.

26. This act shall be deemed a public act, and judicial

notice shall be taken thereof in all courts and places, without the same having been pleaded or read in evidence.

27. The Board of Commissioners shall have the power to prohibit the working of State convicts within the corporate limits of the city.

28. The Board of Commissioners shall have power to prohibit minors from going and being on the public streets and in public places in the City of Dallas between the hours of 9 o'clock p. m. and 4 o'clock a. m., at night, without the consent of their parents or guardians.

29. The provisions of this act, in so far as they may conflict with any State law, shall be held to supersede the said law to that extent, and it shall not be held invalid on account of such conflict.

30. All elections shall be held according to the provisions of the law of the State of Texas applicable thereto; the presiding judges thereof shall be qualified voters in the city. The Board of Commissioners shall provide for their compensation and regulate and define their duties and powers, and they shall have such judges and clerks as are in such cases provided for by the laws of the State of Texas, which judges and clerks shall be selected by the presiding judge. In case the person so appointed the presiding judge is unable, fails or refuses to act as such, or the Board of Commissioners shall fail to appoint, or in case no presiding officer appears to open the polls, the attending qualified voters shall appoint such officer, who shall have the same powers, and perform all the duties of the presiding judge. But in such cases, such judges shall in their returns certify that the presiding officer acting as such, was duly elected by the electors present.

31. The manner of conducting, and voting at such elections under this act, keeping the poll lists, canvassing the votes and certifying the returns, shall be such as is provided by the laws of the State of Texas for similar elections, and as may be provided by the Board of Commissioners by ordinance.

32. The managers of elections shall be sworn to well and truly conduct the elections, without partiality or prejudice, and agreeable to law, according to the best of their skill and ability, which oath shall be administered to the judges and clerks by the presiding officer. The presiding officer shall be sworn to discharge the duties of presiding officer of elections to the best of his skill and ability, which oath shall be administered by the Mayor, City Secretary or any justice of the peace.

33. Whenever it shall happen in any election that there is

a tie between one or more candidates for the same office, the Board of Commissioners shall declare such election void as between such candidates, and order a new election for such office, giving at least ten days' notice thereof.

Every person elected or appointed to any office in the City of Dallas shall, before he enters upon his duties, take the official oath prescribed by the State Constitution, and such additional oath as the Board of Commissioners may prescribe to secure a faithful performance of duty.

Any officer ceasing to possess any of the qualifications required of him at the time of his election, shall thereby vacate his office, and the same shall be filled as herein provided.

34. All rules and regulations and ordinances concerning the police and fire departments of the City of Dallas in force when this act goes into effect, and which are not in conflict with this act, shall be and remain in force until altered, amended or repealed by the Board of Commissioners; and all such rules and regulations and ordinances as may be in conflict with this act are hereby repealed.

No person shall be eligible to appointment, or to be appointed, or serve as a policeman, officer of police or fireman of the City of Dallas, who shall have been convicted of any offense, the punishment for which may be confinement in the State penitentiary; nor shall any person be appointed who is not shown to be of good character, or who can not read and write the English language, or who does not possess ordinary physical strength and courage.

All policemen and firemen of the City of Dallas shall hold their positions during good behavior, and shall not be removed from same except for such cause as in the opinion of the Board of Commissioners renders them unfit to remain in the service of the city, and after written notice giving the grounds for such discharge or removal and an opportunity to be heard on such charges, or reasons.

The Board of Commissioners shall have the authority to make provision for the care and sustenance of policemen and firemen who have been disabled while in the active discharge of their duties in the service of the city, or who after long and continuous service have become, by reason of old age and infirmities, incapacitated to discharge their duties. After January 1, 1910, all policemen and firemen who shall have served continuously for ten consecutive years and who have not been found guilty of any charges for violation of any of the rules of said department, shall each receive as salary the sum of \$2.50 per month in

addition to their regular salaries; for fifteen years of such service \$5 per month in addition to their regular salaries; for twenty years of such service, \$7.50 per month in addition to their regular salaries; for twenty-five years of such service, \$10 per month in addition to their regular salaries.

35. The offices of Mayor, Aldermen, Police Commissioner and Fire Commissioner, as said offices are at present created and constituted by the City Charter of the City of Dallas, Texas, are hereby abolished and vacated; and such offices and the salaries thereof shall wholly cease and expire at the time when the Mayor and Board of Commissioners, as constituted in this act, shall be elected and qualified. All other officers, including the Chief of Police and the Chief of the Fire Department of the City of Dallas, shall have the right to serve until the end of the terms for which they were respectively appointed or elected. Such officers shall, however (except the members of the Board of Education), be under the direct control, supervision and management of the Board of Commissioners, as herein created, and each of said officers shall be subject to removal by said Board for incompetency, insubordination or any other good cause, if complaints or charges shall be preferred against him and upon trial thereof he shall be found guilty by said Board of Commissioners. The salaries of said officers so retained shall not be increased or diminished during their terms of office.

36. It shall be the duty of the Mayor as soon as this act shall take effect, to order an election on the sixth Tuesday after this act takes effect, at which election a Mayor and four Commissioners shall be elected at large in the City of Dallas, and the proposed bond issues and special tax prescribed in Section 3, Article XI, shall be submitted to the qualified property taxpayers of said city. If, for any reason, the Mayor shall fail to make such call for said election within forty days after this act becomes a law, then it shall be the duty of the County Judge of Dallas County to issue said call for said election and to give twenty days' notice thereof. Said election shall be held according to the laws of the State or Texas applicable thereto, except where the same may be in conflict with the provisions of this act.

The presiding officers thereof shall be qualified voters of the City of Dallas and shall receive such compensation and perform such duties as may be provided by law and ordinance of the City of Dallas. In case such presiding officer so appointed fails or refuses to act, or in case no presiding officer appears to open the polls, the attending qualified voters shall appoint

such officer, who shall have the same powers and perform all the duties of presiding judge. But in such cases such judges shall, in their return, certify that the presiding judge acting as such, was duly elected by the electors present, naming at least three such qualified electors present and voting. The Mayor and four Commissioners elected at said election, as provided herein, shall hold their respective offices, perform their duties and receive their pay until the first Tuesday in April, A. D. 1909, and until their successors are elected and qualified. There shall be held on the first Tuesday in April, A. D. 1909, and every two years thereafter, unless otherwise provided by law, a regular election for a Mayor and four Commissioners, who shall perform their duties and discharge the obligations conferred upon them by this act, and who shall retain their offices for two years and until their successors are elected and qualified.

37. All taxes heretofore levied and assessed by the City of Oak Cliff and not collected when this act goes into effect shall be collected by the City of Dallas, as other taxes are collected.

38. The public schools of Oak Cliff, as they now exist, shall be maintained and kept at the present high standard, including all the grades as they are now maintained under the control and management of the Board of Education of the City of Dallas and the provisions of the Charter of the City of Dallas applicable thereto.

39. There shall always be maintained within the said territory of Oak Cliff heretofore annexed to the said City of Dallas, an adequate fire station properly and adequately equipped with sufficient force to operate the same without discrimination.

Said territory or Oak Cliff heretofore annexed to the City of Dallas, is hereby declared to be a residence district and the city government of Dallas shall never have authority to permit any intoxicating liquors to be sold, bartered or exchanged within said limits. The present statute of local option as it now exists in said territory of Oak Cliff shall not be repealed or changed by any act of the city government of Dallas, and should any election be held on said question, it shall be held solely in the entire justice precinct in which the City of Oak Cliff was and is situated prior to the adoption of this act, to-wit: Precinct No. 7, Dallas County, Texas, as it is now constituted.

The Board of Commissioners of the City of Dallas shall expend for street improvements within the limits of the territory of Oak Cliff heretofore annexed to the City of Dallas, annually,

not less than two thousand (\$2,000) dollars for a period of five years from and after the 3rd day of July, 1903.

All lawful franchises and contracts made and granted by the City of Oak Cliff shall continue valid and unaffected by the embracing or including within the limits of Dallas the said territory; provided, that all moneys heretofore required by any of said contracts to be paid to the City of Oak Cliff shall after the passage of this act be paid to the City of Dallas.

40. It shall be unlawful for any person to incumber or obstruct any street, highway or grounds of the City of Dallas with any posts, boxes, lumber, fences or with anything else. Any person violating the provisions of this section shall be subject to a fine in any sum in the Corporation Court, not exceeding two hundred dollars, and each and every day that any obstruction shall exist shall constitute a separate and distinct offense.

41. No officer or employe of the City of Dallas shall ever accept, directly or indirectly, any gift, favor, privilege or employment from any public utility corporation enjoying a grant of any franchise, privilege or easement from said city, during the term of office of such officer, or during such employment of such employe, except as may be authorized by law or ordinance. Any officer or employe of the city who shall violate the provisions of this section shall be adjudged guilty of a misdemeanor and shall be imprisoned in the county jail not less than three months nor more than twelve months, or shall be fined not less than five hundred dollars nor more than one thousand dollars, or may be punished with both such fine and imprisonment, and shall be subject to removal from office.

42. No contract shall be entered into by the Board of Commissioners until after an appropriation has been made therefor, nor in excess of the amount appropriated, and all contracts shall be made upon specifications, and no contract shall be binding upon the city unless it has been signed by the Mayor and countersigned by the Auditor and the expense thereof charged to the proper appropriation; and whenever the contract charged to any appropriation equals the amount of said appropriation, no further contracts shall be countersigned by the Auditor.

All contracts, of whatever character, pertaining to public improvements, or the maintenance of public property of said city, involving an outlay of as much as five hundred (\$500) dollars shall be based upon specifications to be prepared and submitted to and approved by the Board of Commissioners; and after approval by the Board of Commissioners, advertisement for the proposed work, or matters embraced in said proposed

contract, shall be made, inviting competitive bids for the work proposed to be done, which said advertisement shall be published in a daily newspaper not less than five times. All bids submitted shall be sealed, shall be opened by the Mayor in the presence of a majority of the Board of Commissioners, and shall remain on file in the office of City Secretary and be open to the public inspection for at least forty-eight hours before any award of said work is made to any competitive bidder.

The Board of Commissioners shall determine the most advantageous bid for the city, and shall enter into contract with the party submitting the lowest secure bid; and if, in the opinion of the Board of Commissioners, none of said bids are satisfactory, then the Board of Commissioners may have the said work done by day labor, and a detailed statement of all such work done by day labor, showing the cost of same, shall be filed with the Board of Commissioners. Pending the advertisement of the work or contract proposed, specifications therefor shall be on file in the office of the City Secretary, subject to the inspection of all parties desiring to bid.

43. In addition to all the powers elsewhere granted in this act, the City of Dallas shall have power to prohibit the erection, construction and maintenance of oil houses, where oil is stored, or oil yards in any portion of the city, and to prohibit the erection of such oil houses or oil yards where oil is stored within certain distances of the main lines of any railroad, and to prohibit the erection and location of oil houses and the storing of same in any part of the residence district of the city, and to authorize the inspection of all such oil houses and oil yards; and to require the building or construction of all oil houses out of fire-proof material. To require the construction of suitable fire-escapes on or in hotels, lodging houses or other buildings, whether now built or hereafter to be built; to regulate the construction of all passenger or freight elevators used in buildings and to provide for their inspection, and to pass all suitable laws necessary for the safety and protection of life or property in the use of such elevators; to regulate and prohibit the construction of livery stables or blacksmith shops in the resident portion of the City of Dallas; to prohibit the erection or construction of any building or structure of any kind within the City of Dallas without a permit first having been issued by the City for the construction or erection of such building or structure, and to authorize a fee to be charged for such permit; to authorize the inspection by the city of all buildings or structures during the progress of their construction; to require that all buildings shall be constructed in conformity to the building regulations which may

exist in said city, or which shall hereafter be passed; to license, tax and regulate draymen, hackmen, omnibus drivers, baggage wagon drivers and drivers of vehicles of every kind, and all others pursuing like occupations, with or without vehicles, and prescribe their compensation, and to make it a misdemeanor for any person to attempt to defraud them of any legal charge for services rendered; to regulate stands for vehicles and regulate license and restrain runners for railroads, vehicles of any kind, hotels, public houses of any kind, or other business of any kind; to prohibit or regulate hacks, move wagons, baggage wagons or drivers of any thereof from making public stands in the streets of the city, and the Board of Commissioners may, if in their judgment they deem best, prescribe certain bounds, within which no hack, move wagon or other vehicle or wagon let for hire shall occupy any portion of the public streets therein for the purpose of a public stand or a private stand.

44. The Board of Commissioners shall have power to summon and compel the attendance of witnesses, and the production of books and papers before them whenever it may be necessary for the more effective discharge of their duties, and shall have the power to punish for contempt before them with the same fines and penalties as the County Judge may punish for contempt before the County Court. All process shall be signed by the Mayor and attested by the City Secretary, and shall be served by the Chief of Police or any police officer of the said city.

45. In the event any part, article, section or subdivision of this act shall be held to be unconstitutional or invalid for any reason, such holding shall not be construed to invalidate or impair the remainder of the act, but the same shall continue in full force and effect notwithstanding such holding.

46. The act entitled "An Act to Incorporate the City of Dallas and grant it a charter," contained in the special laws of the Twenty-Ninth Legislature, and all other acts relative to the incorporation of the City of Dallas, so far as the same may conflict with this act, shall be and the same are hereby repealed, but all property actions, rights of action, claims and demands of every nature and kind whatever vested in the city or existing or asserted against the city, under and by virtue of said laws hereby repealed, shall vest in and remain and inure to the said corporation and to the persons asserting such claims against it, under this act as fully and completely in all respects as if the said laws had not been repealed.

47. Whenever any power, authority or right is conferred

herein upon the City of Dallas, or upon the Board of Commissioners, and provisions are incorporated herein for the exercise thereof in different ways, each of such provisions shall be held and construed to be cumulative of the other referring to the same subject, and in such cases, the Board of Commissioners shall be empowered to use its own discretion with respect to which of such powers it shall exercise.

48. All elections for the approval or rejection of bond issues, the granting of franchises and the levying of special taxes, wherein such matters shall be submitted to a vote of the taxpayers of the city, shall be held at a general election in said City of Dallas, and the elections held to elect members of the Board of Commissioners and the Board of Education shall be the only elections in said city which shall be denominated general elections.

Sec. 48-A. That the Board of Commissioners may at such time as may be deemed advisable by them, order a special election to be participated in and held by the qualified voters of the City of Dallas, who are property tax payers in said city, for the purpose of determining upon the proposition of the issuance of bonds of the City of Dallas, in such an amount as may be deemed necessary by the Board of Commissioners, in order to raise funds to dispose of and divert the sanitary sewerage of the city of Dallas from being discharged into the Trinity River. That subdivisions five, six, seven, eight and nine of Article II of the City Charter or act hereby amended, shall govern and control the manner of issuing the bonds hereby authorized; and said election shall be held in accordance with the provisions of the City Charter and laws of the State applicable thereto. (Amendment of 1909.)

49. The City of Dallas shall have the same right of appeal as is allowed the defendant from the judgment of the Corporation Court in all criminal cases involving the constitutionality or validity of any statute of the State of Texas or any ordinance of the City of Dallas.

50. There shall be printed upon the official ballot to be used at the first election to be held under this act, above the names of the candidates upon said ballot, the following words:

"For the recall."

"Against the recall."

Every qualified voter voting at said election shall be entitled to vote upon said subject. In the event of a majority of the voters who shall vote thereon shall vote in favor of the recall, the provisions of Article 9 or this act relating to said subject,

including all of the provisions of said article, shall become operative and shall have full force and effect as all other provisions of this act. If, however, a majority of the voters voting upon said subject shall vote against such recall provisions, the same including all the provisions of said Article 9, shall not take effect and shall not have the force of law; provided, however, that in the event this subdivision of this act shall be held unconstitutional or invalid for any reason, such holding or decision shall not in any way affect or impair any other article, section, subdivision or provision of this act. And provided, further, that in the event this subdivision of this act shall be held unconstitutional or invalid for any reason, such holding shall only affect this subdivision and shall not be construed to invalidate the provisions of Article 9 of this act relating to such subject.

51. The fact that the people of Dallas have voted to request the Legislature to pass a bill creating a new charter for said city under which it will have a Commission form of government, the near approach of the end of the session, and the crowded condition of the calendar, creates an emergency and an imperative public necessity requiring that the Constitutional rule requiring bills to be read on three several days be suspended and said rule is hereby suspended, that this act shall take effect and be in force from and after its passage, and it is so enacted.

A. B. DAVIDSON,
President of Senate.

THOS. B. LOVE,
Speaker House of Representatives.

Approved April 13, 1907.

T. M. CAMPBELL, Governor.

I hereby certify that the within S. B. No. 316 passed the Senate April 3, 1907, by two-thirds vote, ayes 27, nays 0. House amendments concurred in April 8, 1907, by two-thirds vote, ayes 25, nays 0.

CLYDE D. SMITH,
Secretary of Senate.

I hereby certify that the within S. B. No. 316 passed the House of Representatives with amendments April 8, 1907, by the following vote, ayes 105, nays 0.

BOB BARKER,
Chief Clerk House of Representatives.

Received in the Executive Office this 12th day of April, A. D. 1907, at 11 o'clock and — minutes, a. m.

A. M. BARTON,
Private Secretary.

Received in Department of State, this 13th day of April, A. D. 1907, at 12 o'clock and 15 minutes p. m.

L. T. DASHIELL,
Secretary of State.

THE STATE OF TEXAS,

Department of State.

I, L. T. Dashiell, Secretary of State of the State of Texas, do hereby certify that the attached and foregoing is a true and correct copy of S. B. No. 316, being an Act entitled "An Act to grant a new charter to the City of Dallas, Dallas County, Texas; repealing all laws or parts of laws in conflict herewith, and declaring an emergency," passed and enacted by the Thirtieth Legislature of the State of Texas, and now on file in this department.

In testimony whereof, I hereto sign my name officially and cause to be impressed hereon the seal of State at my office in the City of Austin, Texas, this, the 16th day of April, A. D. 1907.

(Seal)

L. T. DASHIELL,
Secretary of State.

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EXPLANATION.

All references are to the articles, sections and sub-sections of the Charter and to the pages as well. For illustration the reference II-3-2 means Article II, Section 3, Subsection or subdivision 2. Again the reference X-I means Article X, Section I. Again the reference IX-1-d would mean Article IX., Section 1, Subdivision d.

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—1910—
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CHARTER

OF THE

CITY AND COUNTY OF DENVER

FRAMED BY THE
SECOND CHARTER CONVENTION
FEBRUARY 6, 1904

BY AUTHORITY OF ARTICLE XX OF THE
CONSTITUTION

TO BE VOTED ON MARCH 29, 1904

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OFFICERS AND MEMBERS
OF THE
SECOND CHARTER CONVENTION
OF THE
CITY AND COUNTY OF DENVER.

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<i>Vice-President</i>	HARPER M. ORAHOOD
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PREFATORY SYNOPSIS

The second charter convention submits to the people of the city and county a draft of a charter comprising fifteen articles, with their proper subdivisions. The total number of sections is 354, and the subjects to which they severally relate are tabulated, with proper references, in the synopsis of contents hereto attached.

Article I defines the boundaries of the city and county as outlined by article XX of the state constitution.

Article II, comprising sections 4 to 23, inclusive, entitled Legislative Department, is intended to define the powers and duties of the council. The dual system now in force is retained, with an increase of the board of supervisors from five to seven in number. The city and county is divided into seven districts, and a supervisor living in each district shall be elected at large. One alderman from each ward is provided for, and the ultimate number of wards limited to twenty-one. Provision is made for the exercise of the initiative and referendum, as required by article XX.

Article III, relating to the executive department, comprises sections 24 to 130, inclusive. The department comprises a mayor, attorney, clerk, recorder, sheriff, coroner, superintendent of schools, assessor, auditor, treasurer, commissioner of supplies, commissioner of sprinkling, department of fire, police and

excise, department of public utilities and works, department of parks, department of health, department of charity and correction, a commissioner of highways, and other subordinate appointive positions. The mayor, attorney, clerk, recorder, sheriff, coroner, superintendent of schools, assessor, auditor and treasurer are elective. All other executive officers are appointed. The term of the elective officers is fixed at four years. The members of the board of fire, police and excise, and public utilities and works are appointed by the mayor, the commissioner of excise being ex-officio chairman of the fire and police board. The board of public works is composed of the engineer and highway commissioner, together with the president, to be appointed by the mayor. All appointees are either subject to removal by the mayor for causes not political, or at his pleasure. One member of each board must be of different political faith from the others. The members of the park, library and charity and correction commissions serve without compensation. It is believed that due provision is made for all the phases and needs of the executive department.

Article IV comprises sections 131 to 148, inclusive, and relates to the judicial department. Two judges of the county court are provided for, one of whom shall be elected every two years, except that at the first election one of the judges chosen shall serve for a shorter term. Provision is made for three justices of the peace, and as many constables. The police court is abolished, the duties of such court being imposed upon the justices of the peace.

Article V, sections 148 to 165, inclusive, relates to officers and salaries. The duties required of the various officers, their responsibilities and compensation are fixed, and all persons in the employ of the city and county whose salaries are not specifically mentioned are classified as employees. The salaries are, in some instances, increased as are the duties attached

to the various positions. In other respects the salaries are those now prevailing.

Article VI, relating to elections, comprises sections 166 to 184, inclusive. The elections are fixed for the third Tuesday of May, 1904, and each alternate year thereafter. An election commission, composed of three members, is created, with full authority in all matters of registration and election. One member of such commission shall be of different political faith from the others, and a salary of \$1,000 per annum is provided for each member.

Article VII, sections 185 to 210, inclusive, relates to the civil service. The convention has named a commission for two years, after which the mayor shall appoint such members for six, four and two years, respectively, and one member shall be appointed every two years thereafter. The commission serves without compensation, and the departments specified in article XX are placed under its control. One member shall be of different political faith from the other two.

Article VIII, sections 211 to 251, inclusive, relates to finance and taxation. It includes provisions for police department relief fund and firemen's pension fund. It is believed that the article fully covers the general subject of the public revenue, including taxation, accounting, appropriations, and bonded and other indebtedness. A limitation is placed upon the amount of public indebtedness, and provision is made for the refunding of all existing liabilities.

Article IX, sections 252 to 264, inclusive, relates to public utilities, and provides for the management and operation thereof.

Article X, sections 265 to 269, inclusive, relating to franchises, repeats the language of article XX upon the subject, and limits all franchises granted to twenty years. It reserves to the people the right to regulate rates for service, and provides for the granting of licenses or permits, revocable at any time.

Article XI, sections 270 to 332, inclusive, is devoted to the subject of public improvements. The board may initiate paving districts of not to exceed twelve blocks, without petition, but the time for remonstrance has been extended from thirty to sixty days, and the percentage reduced from 51 per cent. to 35 per cent., and no monopoly material can be used. Ample provision is made for necessary sanitary sewers, and for all public improvements needed or desired from time to time, and for the payment therefor by assessments and from the general revenues. The subjects of parks, trees, suburban improvement districts, Cherry creek and Platte river are fully provided for.

Article XII, sections 333 to 337, inclusive, gives the council power to change the channel of Cherry creek.

Article XIII, sections 338 to 347, inclusive, defines the rights and liabilities of the city and county.

Article XIV is the schedule. Provision is here made for the continuation of ordinances. It also contains the usual precautionary requirements naturally falling under this subject.

Article XV, providing for an auditorium, is taken from the charter proposed by the first convention.

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PREAMBLE.

We, the people of the city and county of Denver, under the authority of the state of Colorado, do ordain and establish this charter for the city and county of Denver.

CHARTER OF THE CITY AND COUNTY OF DENVER.

ARTICLE I.

BOUNDARIES.

Section 1. The boundaries of the city and county, with the powers of annexation, shall be as defined by the constitution and the laws of the state of Colorado.

Section 2. The city and county may be divided, or resubdivided, by ordinance, into not less than sixteen (16) nor more than twenty-one (21) wards, and into election precincts for election purposes; Provided that until changed by ordinance, and for all the purposes of said election and of membership in the board of aldermen, the territory within the limits of the city and county existing at this time is hereby divided into sixteen (16) wards, corresponding in numbers and boundaries with the wards of the city and county heretofore established and now existing.

Section 3. The city and county is hereby divided into seven (7) supervisor districts, and for all the purposes of membership in the board of supervisors wards numbers fifteen (15) and sixteen (16) shall be known as district number one; wards numbers six (6) and seven (7), district number two; wards numbers one (1), two (2) and eleven (11), district number three; wards numbers three (3), four (4) and five (5), district number four; wards numbers eight (8) and nine (9), district number five; wards numbers ten (10) and fourteen (14), district number six; wards numbers twelve (12) and thirteen (13), district number seven.

Provided that if the number of wards be changed by the council the boundaries of said districts may also be changed by ordinance; but each ward shall be wholly in such supervisor district, and each district shall be composed of contiguous territory.

ARTICLE II.

LEGISLATIVE DEPARTMENT.

Section 4. All legislative powers conferred by the constitution upon the city and county, except as otherwise provided, shall be vested exclusively in a council, consisting of a board of supervisors and a board of aldermen. The board of supervisors shall consist of seven (7) members, including a president, to be elected as herein provided, and all members of the board of supervisors shall be elected by the city and county at large; Provided, however, that there shall be one supervisor from each supervisor district; and no person not a resident of the supervisor district from which he is elected shall be eligible for membership in the board of supervisors.

Section 5. Members of the board of supervisors shall be elected for the term of four (4) years, except as herein provided.

Section 6. The supervisors at their first session shall be divided into two classes; those elected in districts designated by even numbers shall constitute one class; those elected in districts designated by odd numbers shall constitute the other class. The supervisors of one class shall hold for two (2) years; those of the other class shall hold for four (4) years, to be decided by lot between the two classes; so that one-half of the supervisors, as near as practicable, may be biennially chosen forever thereafter. The board shall, by ballot, elect one of its number as president, who shall hold such position for the term of one (1) year, and until his successor is elected in the same manner.

Section 7. The board of aldermen shall consist of not less than sixteen (16) nor more than twenty-one (21) members, to be elected by wards, one from each ward of the city and county, and for the term of two (2) years, and they shall by ballot elect one of their number as president of the board, who shall hold such position for the term of one (1) year, and until his successor is elected in the same manner.

Section 8. All members of the council shall be exempt from serving on juries in the courts of this state during their term of office. No person not a citizen of the United States, a resident of the territory comprising the city and county for at least two (2) years, and at least one (1) year a tax payer within said limits of the city and county, and at least twenty-five (25) years of age, shall be eligible for membership in the council; and no person not a resident of the ward from which he is elected, shall be eligible for membership in the board of aldermen.

No member shall hold any other office or employment, compensation for which is paid out of public moneys of the city and county, or be elected or appointed to any office created or the compensation of which was increased, by the council while he was a member thereof, until one (1) year after the expiration of the term for which he was elected, or be interested directly or indirectly in any contract with the city and county. No person who is directly or indirectly interested in any contract with the city and county, or any department or institution thereof, or who is indebted to the state or to the city and county for taxes, or who shall have been convicted of malfeasance in office, bribery or other corrupt practices, shall be qualified for membership in the council.

Section 9. Each board of the council shall hold regular meetings twice in each month, at the city hall, but the regular meetings of the two boards shall not

be held in the same week; and until otherwise provided by ordinance the regular meetings of the board of aldermen shall be held on the first and third Thursdays, and of the board of supervisors on the second and fourth Thursdays. The council shall sit with open doors, and keep a journal of its proceedings. The clerk of the city and county shall be the clerk of the council.

Section 10. The president of each board shall preside at all meetings of his board, and shall have a vote upon all measures pending therein. He shall appoint all committees and exercise such other powers as are usually vested in a presiding officer. Each board may in the temporary absence of its president, or his inability to perform the duties pertaining to his office, elect a president pro tem, who shall be temporarily clothed with the powers and duties of the president, but shall not be entitled to receive any additional salary. The proceedings of each board in electing such president pro tem shall be evidenced by a suitable record thereof.

Each board shall be the sole judge of the qualifications, election and returns of its own members. It shall have power to determine the rules of its own proceedings, punish its members for disorderly conduct, and with the concurrence of two-thirds of all the members elect, expel a member. A majority of the members elect of each board shall constitute a quorum; a smaller number may adjourn from time to time, and may compel the attendance of absent members in such manner and under such penalties as each board shall provide.

Section 11. A journal of the proceedings of each board shall be kept by the clerk or a deputy clerk of the city and county, upon which shall be entered each vote taken by ayes and noes; and no action of either board, except an adjournment, shall have any force unless a majority of all of the members elected shall have voted in favor thereof.

Section 12. If any member of either board shall be absent from any regular meeting thereof without being excused, he shall forfeit to the city and county ten dollars (\$10.00) of his compensation for any such absence; and the journal record of the roll call shall be conclusive on the question of his presence or absence. The clerk keeping the journal shall immediately after each meeting notify the auditor of the name of any absentee, who shall deduct all such forfeitures from the absentee's monthly salary next to be paid.

Section 13. The council shall act only by ordinance in matters of legislation, contract, appropriation or expenditures of money and by ordinance or resolution in other matters. All ordinances or resolutions, except ordinances making appropriations, shall be confined to one subject, which shall be clearly expressed in the title. If any subject shall be embraced in any ordinance which shall not be expressed in the title, such ordinance shall be void only as to so much thereof as shall not be so expressed. Ordinances making appropriations shall be confined to the subject of appropriations. No ordinance shall be passed except by bill, and each bill when introduced shall be read at length and referred to a committee and shall not be subsequently so altered or amended as to change its original purpose. Bills may originate in either board and may be amended or rejected by either board. They shall be reported back to the board by the committee within five (5) days after such reference, or at the next regular meeting of the board after the expiration of said five (5) days unless a later day is designated when such reference is made. The ayes and noes shall be taken upon the passage of all ordinances and resolutions and entered upon the journal.

No ordinance shall take effect until published in some newspaper of general circulation published in the city and county, or in book or pamphlet form, by

authority of the council. No bill or resolution authorizing the expenditure of more than five thousand dollars (\$5,000.00), except in case of local improvements to be paid for, in whole or in part by special assessments, shall be passed until after the expiration of one week from and after the introduction of the same, nor until advertisement has been made by the clerk for at least five (5) days in some such newspaper, stating the general nature of the contract or expenditure as the case may be, and in case of the adoption of any amendment altering the contract or expenditure the proposed time shall be advertised in like manner before final action thereon. No bill for the publication of ordinances in newspapers shall be paid until the publication thereof shall be evidenced by affidavit of the publisher of same or some one authorized to act in his behalf, such affidavit to be accompanied by the ordinance as published.

No ordinance shall be revived or amended or the provisions thereof extended or conferred, by reference to the title only; so much thereof as is revived, amended, extended or conferred, shall be re-enacted at length.

Section 14. The style of all ordinances shall be: "Be it enacted by the council of the city and county of Denver."

Section 15. Every ordinance or resolution passed by the council shall be presented to the mayor within twenty-four (24) hours thereafter. If he approve such ordinance or resolution he shall sign it within five (5) days after receiving it; if he shall disapprove it, he shall within five (5) days after receiving it return the same with his objections in writing to the board in which it originated, which board shall enter the objections at large upon its journal and proceed to reconsider the same. If then two-thirds of the members agree to pass the same, it shall be sent, together with the objections, to the other board, by which it shall be likewise reconsid-

ered, and if approved by two-thirds of the members elected to that board it shall become an ordinance or resolution, notwithstanding the objections of the mayor. In all such cases a vote of each board shall be determined by ayes and noes to be entered upon the journal. If the mayor do not return the resolution or ordinance with such disapproval within the time specified, it shall take effect as if he had approved it. In an ordinance appropriating money, the mayor may approve or disapprove any item; as to the items approved the ordinance shall take effect as in case of other ordinances approved. As to the items disapproved, the same shall be reconsidered by the council as in other cases of disapproval.

Section 16. Whenever an executive or administrative function shall be required to be performed by ordinance, the same shall be performed by the proper executive department, and not by the council. Such ordinance shall designate the department which is to perform the duties thereunder. If such designation be not made the mayor shall assign such duties to the proper department. The council shall not, except as herein provided, appoint any person to any office or employment, or create any new department.

Section 17. Except as otherwise provided in this charter, the council shall have power to appropriate all money necessary for the expenses of the city and county and to transfer the unexpended balance of such appropriation not needed for the purpose for which it was made.

The council shall have power to enact and provide for the enforcement of all ordinances necessary to protect life, health and property, to declare, prevent and summarily abate and remove nuisances; to preserve and enforce the good government, general welfare, order and security of the city and county and the inhabitants thereof; to enforce ordinances and regulations by ordaining fines not exceeding three hundred dollars or imprisonment not exceeding

ninety (90) days, or both fine and imprisonment for each and every offense; the council, or a committee thereof duly authorized by it, shall have power to investigate any department of the city and county and the official acts and conduct of any officer thereof, and may compel the attendance and testimony of witnesses and the production of books and documents. No enumeration of particular powers granted to the council shall be construed to impair any general grant of power herein contained, nor to limit any such grant to powers of the same class or classes as those so enumerated.

Section 18. If a bill shall be amended and passed by either board other than the board in which the same originated, it shall be returned with the amendments to the board in which the same originated; and the vote shall be taken upon the bill as amended, but no further amendments shall be made to such bill after such return. All amendments adopted by either board to any bill or resolution shall be incorporated with the original bill or resolution by engrossment, and re-read in full before final passage; and no bill shall become an ordinance, nor shall any resolution take effect, unless signed by the president or by the president pro tem, of each board.

Section 19. The mayor may call special meetings of either board of the council, and upon written application of a majority of the members of either board, shall call special meetings of such board, by causing twenty-four (24) hours' notice in writing to be served upon the members thereof; and a copy of the notice thus served shall be entered upon the journal. The notice shall state the objects for which the meeting is called; and the business of such meetings shall be confined to the objects so stated. Service of such notice may be made by delivering a copy personally to each member, or by leaving a copy thereof at his usual place of residence with a member of his family over the age of fifteen (15) years.

Service may be made by any police officer of the city and county and his return thereon shall be prima facie evidence of service, as therein set forth; but such special meetings of the two boards shall not be held on the same day.

INITIATIVE AND REFERENDUM.

Section 20. Any measure, charter amendment, or proposal for a charter convention, may be submitted to a vote of the qualified electors in the manner provided by the constitution. Nothing in this section shall apply to the provisions contained in this charter regarding the initiative and referendum concerning ordinances.

Section 21. Any measure passed by the council may be referred to a vote of qualified electors whenever a petition signed by qualified electors in number not less than twenty-five (25) per cent. of the next preceding vote for mayor requesting the same shall be filed with the clerk with a request for an election thereon. Upon the filing of such petition the council shall submit such measure to vote at the next general election, provided the same shall occur not less than thirty (30) nor more than ninety (90) days after filing said petition. Otherwise the same shall be submitted at a special election in the manner provided for special elections by section 5, article XX, of the state constitution.

Said petition shall be filed with the clerk not later than sixty (60) days after the passage of such measure. If a majority of the votes at such election shall be cast against such measure, the same shall be thereby repealed.

Section 22. Any proposed ordinance may be submitted to the council by a petition therefor of the qualified electors in number not less than twenty-five (25) per cent. of the vote at the next preceding election for mayor, and the council shall forthwith pass

such ordinance without alteration or refer the same to the qualified electors at the next general election not held within thirty (30) days after such petition is filed. If a majority of the votes cast shall be in favor of such proposal, the same shall become an ordinance upon the official determination of the result thereof.

Section 23. Within ten days after the filing of a petition or petitions under the two preceding sections or either of them, the election commission shall ascertain from the registration lists whether such petition is signed by the requisite number of qualified electors, and the signatures are genuine; and the commission shall immediately certify the result of its examination to the mayor. If it contains an insufficient number of signatures, it may be amended, by adding thereto, a sufficient number of genuine signatures of qualified voters to complete the required percentage. Within ten days after such amendment, the commission shall examine the amended petition and certify the result, and if the certificate shows the amended petition to contain an insufficient number of signatures it shall remain on file in the clerk's office. When the petition contains a sufficient number of signatures the commission shall submit the same to the mayor, who shall at once transmit the same to the council, which shall call an election as herein provided.

ARTICLE III.

EXECUTIVE DEPARTMENT.

Section 24. The executive power of the city and county shall be vested in a mayor, sheriff, treasurer, auditor, attorney, clerk, assessor, recorder, coroner, county superintendent of schools, and in the departments and commissions herein created.

MAYOR.

Section 25. The mayor shall be the chief executive and enforce all laws and ordinances. He shall

from time to time give the council information of the condition of the city and county and recommend such measures as he may deem expedient. He may remit fines and penalties imposed for the violation of any ordinance, and shall report such remissions to the council at its next meeting, with his reasons.

Section 26. The mayor shall see that all contracts and agreements with the city and county are faithfully kept and fully performed. The head of every department and commission shall report to the mayor all facts and information coming to his knowledge concerning the violation of any contract or agreement with the city and county.

Section 27. The mayor may call upon every male inhabitant over the age of eighteen years to aid in enforcing the laws and ordinances, in preventing and extinguishing fires and in preserving the public peace and safety. Any person who shall refuse or wilfully neglect to obey such call shall be subject to a fine of not more than three hundred dollars.

Section 28. When the mayor is unable for any cause to perform the duties of his office, the president of the board of supervisors shall be the acting mayor; and when both the mayor and the president of the board of supervisors are for any cause unable to perform the duties of said office, the president of the board of aldermen shall be the acting mayor; and in case of death, resignation or removal of the mayor, the president of the board of supervisors shall become mayor, and the board of supervisors by ballot shall elect one of its remaining number as president, who shall hold such position for the unexpired term and until his successor is elected.

No ordinance or resolution shall be approved or vetoed by the acting mayor until the last day when the same could be approved or vetoed by the mayor, nor shall any appointment to office be made by such acting mayor.

Section 29. All bonds, contracts or other instruments of writing, requiring the assent of the city and county, shall be subscribed by the mayor, or acting mayor, as the case may be, under the seal of the city and county, and attested by the clerk. All legal process against the city and county shall be served upon the mayor or acting mayor.

Section 30. The city and county offices shall be in the public buildings of the city and county, and shall be open from 9 a. m. until 5 p. m., Sundays and legal holidays excepted.

Section 31. Whenever a vacancy shall occur in any appointive office, the same may be filled by the mayor, appointing board, commissioners or officers, as in the case of an original appointment, with the same power of suspension or removal; whenever a vacancy shall occur in either board of the council, the same shall be filled by the mayor, by and with the consent of the same board. Whenever a vacancy shall occur in any elective office, other than that of a member of the council, the same may be filled for the remainder of the term by the mayor, by and with the consent of the board of supervisors.

Section 32. Heads of the departments shall make rules and regulations, not inconsistent with the charter and ordinances of the city and county, for the government of their departments, and enforce the same, and from time to time shall meet with the mayor and confer on matters of general importance to the business of the city and county.

There shall be a bureau of street sprinkling which shall be under the control of the mayor. The mayor shall appoint a superintendent of the bureau, who, within the appropriation for street sprinkling, may employ such employes as may be necessary to transact the business of the bureau. The term of office of the superintendent shall be four (4) years.

ATTORNEY.

Section 33. The department of law shall be in control of the attorney for the city and county. He shall be the legal adviser of the mayor, council and heads of departments, and conduct all cases in court wherein the city and county, or any officer thereof in his official capacity, is a party or interested in any manner. He shall prepare all contracts, bonds and other instruments to which the city and county or any officer, board or commission thereof is officially a party. He shall also perform such additional duties as are imposed on county attorneys by the general statutes of the state.

All bills for ordinances for franchises of any kind, for licenses and concerning taxation, shall be referred to him for his opinion, and within five days he shall return the same to the council with a written opinion thereon. When directed by the mayor in writing, or by the council, he shall institute any suit, action or proceeding, upon behalf of the city and county or any board, commission or officer thereof.

Section 34. The attorney shall keep office dockets of cases, properly indexed and numbered, and record therein all proceedings in such cases, keep files of all cases, except those for violation of ordinances in the justice courts, containing copies of papers filed therein, preserve, index and bind records and printed briefs in the appellate courts in cases in which the city and county is a party in interest, all briefs prepared by him, all written opinions and official correspondence, and secure, index, bind and preserve copies of all written opinions rendered in the city and county cases in *nisi prius* courts. All such dockets, files and papers shall be the property of the city and county, and shall be delivered by the attorney to his successor in office.

Section 35. On or before the first day of February of each year the attorney shall make a report covering the last fiscal year, showing all suits commenced and pending in courts of record, the docket number and title, the demand or relief sought, and, if final judgment has been rendered, the amount or nature thereof, whether an appeal has been taken, and where the city and county has sought affirmative relief and the determination thereof has been delayed, the reasons therefor, the amount of judgments for and against the city and county, the amount of fines imposed, and such other information as may be required by the mayor or council.

Section 36. The attorney may employ a first, second and third assistant and a stenographer. The council may, by ordinance, authorize the attorney to employ a police officer as an assistant, under his direction, to investigate the facts in actions brought for or against the city and county or its officers.

Whenever emergency of litigation for or against the city and county shall, in his opinion, require it, the attorney, with the advice and consent of the mayor, shall employ special counsel to assist the attorney. The compensation of such counsel shall be paid out of the appropriation for the department of law.

CLERK.

Section 37. The clerk, or a deputy, shall attend all meetings of the council, and keep a record of the proceedings; shall have the custody of the seal of the city and county, the original rolls of ordinances, original contracts, title deeds to public property, all official indemnity or security bonds, except his own bond, which shall be filed and placed in the custody of the auditor, and other records, papers and documents not required to be deposited with any other officer.

He shall attest all public instruments and official acts of the mayor, or acting mayor, and all instru-

ments requiring the seal of the city and county, by his signature and the seal of the city and county; and shall also certify under his hand and the seal of the city and county all copies of such original documents, records and papers in his office as may be required by any officer or person, and shall charge therefor such fees, for the use of the city and county, as may be provided by general law or by ordinance.

The clerk shall perform such other duties, not inconsistent with the duties imposed by the charter, as the council may by ordinance direct.

He shall appoint a deputy, who shall have power to perform the duties of the clerk, and may also employ such other assistants within his appropriation as are now or hereafter may be authorized by ordinance.

On or before the fifth day of each month the clerk shall make a full and complete report of the business and receipts of his office during the preceding month, which shall be executed in triplicate, one copy thereof delivered to the treasurer, one to the auditor and one to the mayor.

Section 38. Copies of all papers filed in the office of the clerk, and transcripts of the records of the council, and any record in the office of the clerk, duly certified by him, under the corporate seal of the city and county, shall be received as evidence in all courts of this state.

SEAL.

Section 39. The council shall provide by ordinance for an appropriate seal for the city and county.

RECORDER.

Section 40. The recorder is hereby designated as the officer who shall perform the acts and duties now required or that may be hereafter required, to be performed under and by the constitution and general laws of the state by the ex-officio recorder of

deeds, together with such other acts and duties as may be provided by the charter and ordinances. He shall have custody of and safely keep and preserve all the books, records, deeds, maps and papers deposited or kept in his office and transmit the same to his successor.

Section 41. On or before the fifth day of each month the recorder shall make a full and complete report of the business and receipts of his office during the preceding month, which shall be executed in triplicate, and one copy thereof delivered to the treasurer, one to the auditor and one to the clerk.

SHERIFF.

Section 42. The sheriff is hereby designated as the officer who shall perform the acts and duties, and appoint an under-sheriff and deputies, as now required or that may hereafter be required of sheriffs under and by the constitution and the general laws of the state, and he shall be subject to all liabilities provided thereby. He shall perform such other acts and duties as may be provided by the charter and ordinances.

Section 43. On or before the fifth day of each month the sheriff shall make a full and complete report of the business and receipts of his office during the preceding month, which shall be executed in triplicate, and one copy thereof delivered to the treasurer, one to the auditor and one to the clerk.

CORONER.

Section 44. The coroner shall perform the duties of the office of coroner as prescribed by the general laws of the state, and such other duties not inconsistent with such laws as the council may, by ordinance, require.

COUNTY SUPERINTENDENT OF SCHOOLS.

Section 45. There shall be a county superintendent of schools, who shall perform such duties as

are prescribed by the general laws of the state to be performed by county superintendents of schools, and who shall perform such other duties, not inconsistent with the general laws of the state, as may be prescribed by ordinance.

ASSESSOR.

Section 46. The assessor shall assess all taxable property within the city and county at the time and in the manner prescribed by the general laws of the state and provisions of this charter, and shall perform such other duties not inconsistent with such laws and the provisions of this charter as the council may by ordinance require.

AUDITOR.

Section 47. The auditor shall be the general accountant of the city and county. He shall receive and preserve in his office all accounts, books, vouchers, documents and papers relating to the accounts and contracts of the city and county, its debts, revenues and other fiscal affairs not required to be kept by the clerk, and except as otherwise provided in this charter, or by ordinance, prescribe the mode of keeping, dating and rendering all accounts. He shall provide and keep in his office tables of the finances, assets and liabilities of the city and county, and keep all contracts, names of contractors, and names of employes in such manner as to show the department in which they are employed, their respective salaries, powers, duties and how appointed. He shall require all claims, settlements, returns, and reports made to him to be verified. He shall give information as to the exact condition of the treasury, and of every appropriation and fund thereof, upon demand of the mayor, council or any committee thereof.

He shall sign all warrants, countersign and register all contracts, keep a true and accurate account of the revenues, receipts and expenditures of the city

and county, and each of the different funds thereof, furnishing to each department weekly a statement of the unexpended appropriation of that department; see that rules and regulations are prescribed and observed in relation to accounts, settlements and reports; that no appropriation of funds is overdrawn or misapplied, and that no liability is incurred, money disbursed or the property of the city and county disposed of contrary to law or ordinance, and shall perform such other duties not inconsistent with the provisions of this charter, as the council may by ordinance require.

He shall keep an official record of all demands audited by him showing the number, date, amount, name of the original holder, on what account allowed, against what appropriation drawn, out of what fund payable, and by what officer or department previously approved; and he shall allow no demand unless the same has been approved by every department, commission or officer required to act thereon.

He shall keep a register of warrants showing the funds upon which they are drawn, the number, in whose favor, for what services, and the appropriation applicable to the payment thereof.

Section 48. Every demand upon the treasurer, except the salaries of the auditor and his employes, shall before payment, be presented to the auditor, who shall determine that the money is legally due, its payment authorized by law, against what appropriation and out of what fund it is payable. If he allow it, he shall endorse upon it the word "allowed," with the name of the fund out of which it is payable, the date of allowance, and sign his name thereto; if he does not allow it, he shall endorse upon it the word "rejected." No demand shall be approved or paid unless presented as required by this charter.

Section 49. When bonds, coupons or warrants are paid and redeemed, and such payment reported

to the council, the auditor shall certify the same with the numbers and amounts thereof to the mayor, whereupon the mayor, clerk and auditor shall examine such evidences of indebtedness, and if found to be genuine and correct shall make an abstract thereof, mark them, "canceled," and deposit them with the clerk, certifying the same to the council, which certification shall be spread at length upon the journal.

Section 50. The auditor shall make a verified statement to the council showing receipts and disbursements and the condition of each fund at the close of business on June thirtieth, and shall also make and transmit to the council on or before January fifteenth a verified report of the financial transactions of the city and county during the preceding fiscal year.

TREASURER.

Section 51. The treasurer shall receive, receipt for and keep the money of the city and county and pay out the same only on warrants as herein provided.

Section 52. The treasurer, on receiving any money, except for taxes and assessments, shall make duplicate receipts therefor, upon the face of one of which shall appear the word "original," and upon the face of the other the word "duplicate;" they shall be numbered, dated, specify the amount, on what account, from whom received and into what fund or on what account paid. He shall enter upon the stub of such receipt a memorandum of the contents thereof, and deliver the receipt marked "original" to the payor and that marked "duplicate" to the auditor, who shall stamp thereon the date of its delivery to him, charge the treasury with the amount and file the receipt in his office.

Section 53. He shall keep an account with each fund, special or general, and when a warrant is drawn on any particular fund it shall be paid out of that fund only.

Section 54. No money shall be paid out by the treasurer for any purpose except upon warrants drawn upon him by the auditor unless otherwise provided by this charter. Each warrant shall be registered by the auditor, countersigned by the head of the department or clerk of the court, respectively, under whom the claim or demand covered by such warrant originated. Each warrant shall show on its face the date of its issue, the date of the order of the council or such officer, to whom and for what purpose issued, and from what fund payable. Every warrant issued as in this charter required, shall when paid be canceled with a punch cutting the word "canceled" therein and the proper entry thereof made. Provided, the treasurer may pay the interest and principal on bonded indebtedness including special improvement bonds as the same become due without a warrant having previously issued therefor.

Section 55. At the beginning of each calendar month, the treasurer shall report the transactions of his office during the previous month to the auditor, showing the amount of money received, from what source, and, on what account, with a list of all city and county warrants, bonds and orders which have been redeemed by him, or paid into the treasury as money due the city and county, which warrants, bonds, and orders shall accompany his reports for cancellation, which report shall be audited by the auditor and certified by him to the council. The treasurer shall also make an annual report of the transactions of his office on or before the second Monday in January, and from time to time such other reports as may be required by the council. If the treasurer shall fail to report as provided by this section, he shall forfeit and pay to the city and county the sum of five hundred (\$500) dollars for every such failure.

Section 56. The treasurer shall, on or before the second Monday in January, April, July and October make to the council and auditor a detailed verified

statement of all his accounts and the state of each fund, which shall show all moneys received, from what source and for what purpose, and of all moneys paid out, and to whom and for what purpose. A summary of these quarterly reports shall be published by the auditor with the summary of his annual report.

Section 57. The treasurer shall give a bond to the city and county with sufficient sureties, which sureties shall be responsible surety companies, to be approved by the mayor and council, in the sum of five hundred thousand dollars, and for such additional sum as the mayor and council shall require, conditioned as required by the general statutes relating to bonds of county treasurers and as may be further required by ordinance, and for paying over to his successor in office all such sums of money belonging to the city and county as shall be in his hands, and to account for and turn over to his successor all moneys deposited with him for any cause whatsoever, and all city and county property which may come to his hands.

The cost of said bond shall be borne by the city and county, to be audited, allowed and paid out of the treasury as provided for the payment of other general expenses.

Section 58. The treasurer shall, with the approval of the mayor and auditor, select annually, or oftener if necessary, one or more banks or banking institutions in the city and county which will pay the highest interest for the average current deposit of the city and county funds. Before any such deposit shall be made the bank shall give a bond to the city and county with such conditions and in such sum as may be determined by the mayor, auditor and attorney, but not less than the maximum amount which shall be on deposit at any time. The sureties shall be approved by the mayor, auditor and attorney, and shall be other than the surety on the treasurer's bond.

No amount which may be due any depository on account of any evidence of the city and county indebtedness shall be accepted by the treasurer as offset against his deposit with such bank. A verified quarterly statement shall be made to the mayor and auditor by the president or cashier of such bank, showing the amount of interest paid or to be paid by such bank for the use of the city and county funds, and upon failure to make such report after written demand the bank shall forfeit to the city and county the sum of five hundred dollars, and the deposit then remaining in such bank shall immediately be removed and another bank or banks selected as above provided. The surety on such bond shall be a responsible surety company.

Section 59. The treasurer shall, in addition to performing the duties herein specifically required, perform such other duties not inconsistent with the laws of the state and this charter as the council may by ordinance require.

COMMISSIONER OF SUPPLIES.

Section 60. There shall be a commissioner of supplies appointed by the mayor for a term of four (4) years. He shall have control of the department of supplies. He shall be custodian of public buildings and all personal property not in use by the several departments. He shall keep books showing purchases and deliveries to the various departments. He shall, in December of each year require an inventory of the property in use by each department. He shall be the purchasing agent of the city and county, and no purchase shall be made nor liability created for supplies by any other person in the name of the city and county. He is hereby authorized to appoint a deputy commissioner of supplies, who may exercise any and all of the powers and duties of the commissioner of supplies, and such other employees, within his ap-

propriation as may be necessary. Such appointments to be approved by the mayor.

Section 61. Purchases shall be made only by the commissioner of supplies upon requisition signed by the head of the department requiring such supplies, specifying the articles required. The commissioner shall make monthly reports of purchases, at what price, upon whose requisition, and in December of each year shall render to the mayor a complete inventory of all city and county property, and such reports and inventories shall be transmitted by the mayor to the council. He shall, during the month of December in each year advertise in the official paper for at least ten days for sealed proposals for furnishing supplies required by the city and county for the ensuing year. All bids shall be made in duplicate and sealed; one copy filed with the commissioner of supplies, and one copy with the clerk. The right is reserved to reject any and all bids. At the time specified in the notice, the bids shall be opened by the commissioner in the presence of the mayor and auditor, the bidders may be present and may inspect all bids. With the approval of the mayor or auditor, the commissioner may award to the lowest responsible and reliable bidder, contracts for furnishing such supplies. The contractor shall give bond approved by the mayor.

If during the year supplies not included in the annual contracts may be needed, advertisement for bids shall be made for five days; if impracticable to advertise, sealed proposals shall be invited from at least three responsible persons dealing in the articles required, and the bids shall be opened and contracts awarded as hereinbefore provided.

Section 62. Contracts for official advertising shall be let annually in like manner to the lowest responsible bidder publishing a daily newspaper of general circulation in the city and county printed in the English language. All bids may be rejected and again be advertised for, if so determined by the commis-

sioner of supplies and either the mayor or auditor. Such advertising shall include the publication of all official notices, ordinances and other matters required to be published; and where by this charter or by ordinance, any such publications are required to be made in more than one newspaper, then the official paper shall be one of the newspapers in which such publication shall be made. The commissioner may omit from the contract the publication of the delinquent tax list, but if so omitted, the publication thereof shall be let to the lowest bidder on a separate bidding.

INSPECTION.

Section 63. There shall be a building inspector appointed by the mayor, who shall be an architect or practical builder of not less than five years' experience, whose term of office shall be four (4) years. It shall be his duty to inspect all buildings in process of construction or repair, and he shall have the power to inspect all other buildings to ascertain if the ordinances in regard to buildings are being complied with, and shall keep a record of such inspections. In case the ordinances are not being complied with, he shall make a report thereof to the mayor and attorney. It shall be his duty to make all complaints charging violations of the building ordinances.

The inspectors of electric wiring and plumbing shall make reports to the building inspector and such reports shall be entered of record in his office.

It shall be the duty of the fire wardens to make prompt report to the building inspector in every case where they may find any building or structure in an unsafe or defective condition. Such report shall be entered of record in his office.

There shall also be one boiler and elevator inspector, one market master, one electrician, all of whom shall be appointed by the mayor for the term of four (4) years. Except as otherwise herein pro-

vided, the qualifications, powers, duties and liabilities of the officers mentioned in this article shall be as prescribed by ordinance; and within their respective appropriations they shall have power to appoint such assistants as may be necessary, until otherwise changed by ordinance.

DEPARTMENT OF FIRE, POLICE AND EXCISE.

Section 64. There shall be, and hereby is created, a fire and police board, composed of a commissioner of excise, who shall be president of the board, a commissioner of police, and a commissioner of fire; each to be appointed by the mayor for a term of four (4) years, one of said members to be of different political faith from the other two. Any member of said board may be removed by the mayor for any cause, except political, provided that any charges preferred by the mayor shall be in writing and served on such member at least ten (10) days before the hearing thereon and at the hearing, the mayor shall permit such member to appear in person and by attorney, and within a reasonable time present any defense he may have. The decision of the mayor shall be final. Pending the hearing the mayor shall have power to suspend such commissioner. The board shall have charge and control of the departments of fire, police and excise, except as herein otherwise provided. The board shall appoint a secretary at a salary not exceeding eighteen hundred dollars (\$1,800.00) per year, payable out of the treasury, to keep the records and perform such other duties as may be required by the board. The board may appoint other assistants at salaries not exceeding twelve hundred dollars (\$1,200.00) each per year, payable out of the appropriation at the disposal of the board. The board shall be furnished, at the expense of the city and county, with convenient offices, stationery and all facilities for the performance of its duties as may be by the board deemed requisite.

Section 65. The police force shall be composed of the chief of police and such subordinate officers, policemen and other employes to be appointed by the board as may be necessary to preserve the peace, protect persons and property, and enforce laws and ordinances. The term of office of the chief of police shall be four (4) years subject to removal at any time by the board; *Provided*, that any charges preferred shall be in writing and served at least ten (10) days before the hearing thereon; and at the hearing the board shall permit him to appear in person and by attorney, and within a reasonable time present any defense he may have. Pending the hearing, the board shall have power to suspend him. The decision of the board in the premises shall be final.

It shall be the duty of the police force to suppress all riots, disturbances and breaches of the peace and apprehend any and all persons in the act of committing any offense against the laws of the state or of the ordinances, and forthwith bring such persons before the proper court or other competent authority for examination, and at all times diligently and faithfully enforce all such laws, ordinances and regulations for the preservation of good order and the public welfare as the council may enact, and upon view and reasonable suspicion arrest any person or persons who may be guilty of a breach of any of the ordinances or of any crime against the state or the United States. Every officer so authorized to make arrests or to serve process may, in the discharge of his duties, enter into all public places and, with or without process, arrest all persons frequenting such places, and regarded by such officer as suspicious characters, and forthwith bring such persons before the proper court, if said court be then in session, and if not, then to convey such persons to the city and county jail until such time as they can be brought before said court, then to deliver them up for trial and examination.

The police force shall not permit any prize fight, bull fight, glove contest in the nature of a prize fight, or similar exhibition, and shall enforce all general laws and ordinances suppressing gambling, including lotteries, policy shops, pool rooms, or any other form thereof, and a failure upon the part of the chief of police so to do shall be cause for his removal from office.

Section 66. The fire department shall be composed of a chief of the fire department and such other subordinate officers, firemen and other employes to be appointed by the board as may be necessary to protect the city and county against fire.

Section 67. The board shall, in the exercise of its powers, have full, complete and exclusive authority to expend for and on behalf of the city and county, all funds set apart in the annual appropriation ordinance for the use of the board, and all appropriations now set apart for its use, and all disbursements by the board shall be authorized by the board at a regular or duly called special meeting thereof.

Section 68. The board shall, with the approval of the mayor, make all selections of sites for fire or police stations, patrol boxes, fire hydrants, alarm boxes, etc., and change the location thereof; and, upon the passage of an ordinance authorizing the same, to contract for and purchase all sites for police stations and fire houses and to make contracts and pay for the erection thereof, with the right of condemnation herein provided for.

Section 69. The board may appoint such special policemen, patrolmen and watchmen, with or without pay from the city, as it may deem necessary, all of whom shall be subject to the orders of said board and shall be authorized and empowered to do and perform such of the duties of the members of the police force not inconsistent with this act and the ordinances of the city, as may be specified by resolutions of said board.

EXCISE.

Section 70. The fire and police board shall have exclusive power to grant, refuse, revoke or suspend any and all licenses; *Provided*, No license shall be suspended for more than five days nor revoked, except on notice to the holder thereof and a hearing before said board; nor shall any license be granted to any person or persons, if such person or persons shall have been twice convicted of violating any of the provisions relating to excise contained herein or any ordinance applying to saloons, tippling houses or any other place where spirituous, malt or intoxicating liquors are sold.

Section 71. The council shall, by general ordinance, provide what licenses may be granted and upon whom and what imposed, and prescribe the conditions, if any, attaching to the issuance thereof; except as otherwise provided by this charter.

Section 72. The board shall appoint all officers and assistants necessary to perform the duties of the department of excise, except that the officers and assistants necessary for the inspection and collection of all licenses shall be appointed by and be under the supervision of the auditor. Police power is hereby conferred upon such appointees to make arrests for any violation, neglect, or infraction of the charter or ordinances relating to excise. The board shall keep a record of each application for license, setting forth the name of the applicant, his place of business, if any, residence, character of license sought, with term thereof, the recommendation of the board thereon, and if granted, the place, if any, to which the license attaches, the amount payable thereon and the date upon which it expires.

Section 73. No license or permit shall issue until the fee therefor has been paid to the treasurer, who shall endorse thereon such payment, and issue

his receipt therefor to the auditor, who shall then attest such endorsement.

Section 74. All liquor licenses may be transferred by the holder thereof with the approval of the board on the payment of a fee of ten dollars therefor to the treasurer, who shall endorse upon such transferred license such payment, and issue his receipt therefor to the auditor, who shall then attest such endorsement. All other licenses may be transferred upon such conditions as may by ordinance be prescribed.

Section 75. The council shall, by ordinance, provide for the licensing, taxing and regulating of liquor saloons, dram shops and tippling houses, and the selling or giving away of any spirituous, malt or intoxicating liquors by any person or corporation within the city and county; *Provided*, No license for the sale of spirituous, malt or intoxicating liquors in liquor saloons, dram shops or tippling houses shall be granted, except on the petition of the owners of a majority of the real estate within the frontage of the block in which such liquors or any thereof are to be sold. The uniform fee for such licenses shall be six hundred dollars a year, except as herein otherwise provided, and no such license shall be granted for a less term than six months.

Section 76. No liquor saloon, dram shop or tippling house shall be kept open on Sunday, nor between the hours of twelve o'clock at night, and five o'clock in the morning, and all laws of the state concerning closing upon Sunday and election day shall be in full force and effect in the city and county.

Section 77. No license shall issue for the sale of spirituous, malt or intoxicating liquors at any place within five hundred feet of the nearest point of a public park or public school property, used as such.

Section 78. No liquor saloon, dram shop or tippling house shall have or keep in connection with or

as part of such saloon, tippling house or dram shop, any wine room or other place, either with or without doors, curtain or curtains, or screen of any kind, into which any female person shall be permitted to enter from the outside, or from such tippling house or dram shop, and there be supplied with any kind of liquor whatsoever.

Section 79. Any person who, either as principal, clerk, agent, employee or servant, shall sell any spirituous, malt or intoxicating liquors or conduct any other business for which a license is required by law or by the charter or ordinances without first obtaining such license shall be deemed guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of ten (10) dollars or twenty (20) days' imprisonment or both for the first offense, and a fine of not less than one hundred (100) dollars or imprisonment of thirty (30) days or both for each subsequent offense; and it shall be the duty of all policemen to enforce the provisions of this section promptly by closing all such places of business as may be open without a license or temporary permit conspicuously posted therein, and report all such cases immediately to the auditor and to the commissioner of excise who shall cause charges to be made in the proper court against the owner, clerk, agent, employee or servant in charge of said premises.

Section 80. All laws and ordinances prohibiting or regulating the sale of spirituous, malt or intoxicating liquors in municipalities annexed to the city of Denver, or consolidated with the city and county of Denver, except in cases where the license fee for the retail sale thereof was lower than at the rate of six hundred dollars a year, shall remain in force as the same existed at the time of such annexation or consolidation.

Section 81. The existing ordinances regulating the issuing of licenses and the amounts thereof, as

the same exist when this charter is adopted, and the general laws of the state regulating the liquor traffic, as far as applicable, shall be in full force and effect, until changed by the council, except as herein otherwise provided.

DEPARTMENT OF PUBLIC UTILITIES AND WORKS.

Section 82. There shall be a board of public works, composed of the commissioner of public works, who shall be the president of the board, the engineer, and the commissioner of highways. Such board shall have charge and control of all public works and utilities. The members of said board shall each be appointed by the mayor, for the term of four (4) years, one of whom shall be of different political faith from the other two. Any member may be removed by the mayor for any cause, except political, provided that any charges preferred by the mayor against any member of the board shall be in writing and served on such member at least ten (10) days before the hearing thereon, and at the hearing the mayor shall permit such member to appear in person and by attorney, and, within a reasonable time, present any defense he may have. The decision of the mayor in the premises shall be final. Pending such hearing, the mayor may suspend such member. The board shall appoint a secretary, at a salary not exceeding eighteen hundred dollars (\$1,800) per year, payable out of the treasury, to keep the records and perform such other duties as may be required by the board. The board may appoint other assistants, at salaries not exceeding twelve hundred dollars (\$1,200) each per year, the salaries payable out of the appropriation at the disposal of the board. The board shall be furnished, at the expense of the city and county, with convenient offices, stationery and instruments, and all facilities for the performance of its duties as may be, by the board, deemed requisite.

Section 83. Except as otherwise provided in this charter, the board of public works shall have exclusive management and control of the construction, reconstruction and maintenance of all public and local improvements, the care, repair and maintenance of all streets, alleys and other highways and public places, of all sewers, sidewalks, bridges, viaducts, tunnels and other like structures, of all buildings belonging to, and the construction of all buildings for the city and county, except buildings used exclusively for fire or police purposes or for hospitals, of all improvements of Cherry creek and Platte river, of all excavations in the streets, alleys and other highways or public places, the cleaning of streets, the erection, alteration or removal of poles, the location and stringing of wires, laying of tracks, pipes and conduits, whether done by the city and county or other persons, and the full charge and control of all public utilities belonging to the city and county.

Section 84. The board shall also have exclusive power to lay out, open, change, vacate and establish or change the grades of streets, alleys or other highways or public places, subject to approval by ordinance, and to order, contract for and execute all improvements thereon; to grade all streets, alleys and other highways and public places, and cause or permit lamp posts or other lighting apparatus, signs, awnings and other structures to be erected in or removed from the streets, alleys, highways and other public places, to grant permits for excavations therein or the removal of materials therefrom, to require bonds for damages and the proper replacement of the highway, and to refuse all such permits, when the public interests may require it; provided that the council may by ordinance regulate the granting of all such permits.

Section 85. The board shall also have exclusive power and authority to lay out, establish, regulate and improve boulevards and to adopt rules for the regu-

lation and government of the same, and to prohibit heavy traffic upon such boulevards, and the council shall, by ordinance, upon the recommendation of said board, prohibit and provide for the punishment of, any violation of such rules.

Section 86. The board shall hold regular meetings on the first Tuesday of each month and may by rule provide for holding special meetings and service of notice of such special meetings. All duties of the president may in his absence from the city and county or in case of his inability to act, be performed by a president *pro tempore* to be elected by the board. No member of the board shall have any authority to act on behalf of the board, except in pursuance of authority conferred at a lawful meeting of said board, and a majority of the board shall constitute a quorum for the transaction of business, and no action of the board shall be binding, unless authorized by a majority of the members thereof at a regular or duly called special meeting. All proceedings of the board shall be recorded by the secretary, with a record of the vote of each member, when the vote is not unanimous.

All meetings shall be public and the records of the board shall be public records and open to inspection.

Section 87. The board may, in the letting of contracts, impose such conditions upon bidders with regard to bonds and securities, and such guaranties of good faith and responsibility on the part of bidders, for the faithful completion of the work or keeping the same in repair, and providing for any other material matter or thing in connection therewith, as may be considered by the board advantageous to the city and county.

Section 88. The board shall have full, complete and exclusive authority to expend all such sums of money as may be appropriated for the department from the general revenues, and as may from

time to time be realized from the sale of the general bonds of the city and county, if such bonds are authorized and issued under the provisions of this charter, for the purposes expressed in the ordinance submitting the question of incurring the indebtedness; and the issuance of bonds and to negotiate the selling of such bonds; also to cause to be issued bonds of the city and county in the construction of local improvements, as in this charter provided; and to expend on behalf of the city and county all such sums of money as may from time to time be realized from the sale of any of such bonds, or realized from special assessments for local improvements, except parks and park-ways, and of all appropriations made from the general revenues for the construction of public or local improvements; and shall have the exclusive sale of all bonds mentioned in this section and the exclusive expenditure of the proceeds of such sales.

89. The department of public works shall include a bureau of engineering and surveying under the control and management of the board of public works. The engineer shall be the head thereof and shall devote his entire time to the duties of his office.

The board may appoint one chief assistant engineer at a salary of not to exceed twenty-four hundred dollars per year, and in addition to the assistant engineers and inspectors employed on local improvements such assistant engineers and inspectors as may be considered necessary by the board, who shall receive salaries to be fixed by the board, not to exceed eighteen hundred dollars per year, payable out of the general appropriations at the disposal of said board.

Section 90. The engineer shall do all the surveying and engineering of the city and county, and perform such other duties as the board may authorize and direct.

The board shall have the custody of all plats, maps, records, notes, surveys, papers, files and docu-

ments now or heretofore belonging to the office of the city engineer, the county surveyor, or said board, or pertaining to the surveys of the city and county, and shall deliver the same to its successors in office, including all private memoranda made by the engineer or any of his assistants, relating to the surveys or other engineer's data of the city and county.

COMMISSIONER OF HIGHWAYS.

Section 91. There shall be a bureau of highways, the head of which shall be the commissioner of highways; the commissioner shall, under the direction of the board, have general charge, and the care, repair and cleaning of all the streets, alleys, and other highways and public places, and of all bridges, viaducts, tunnels and sidewalks, and of all work done in the maintenance and repair thereof, and of such other operations of the department of public works as may be designated by the board.

DEPARTMENT OF PARKS.

Section 92. The park commission shall be composed of five commissioners, who shall be well known for their business ability, probity and public spirit, one of whom shall be president of the commission and appointed as such, and all of whom shall hold their offices for five years from the date of appointment, except that the first appointments shall be made for such respective terms that one of the appointments shall expire each year. The commissioners shall serve without compensation, except for their actual disbursements, approved by the mayor. One commissioner shall be appointed from each of the park districts, and the president at large, and each commissioner shall have resided at least two years in his district prior to appointment. Any commissioner shall be considered as vacating his office upon the acceptance of any other public office.

Section 93. The commission may employ a secretary at a salary not exceeding fifteen hundred dollars (\$1,500) per annum, payable out of the park fund, who shall keep a record of all proceedings of the commission and have custody of and preserve all its records.

Section 94. The commission shall be provided by the city and county with convenient offices, stationery and the facilities necessary for the performance of its duties, as by the commission deemed necessary and advisable.

Section 95. The commission may appoint a superintendent of parks, who shall be a practical landscape gardener, who shall, under the direction of the commission, have active charge, control and direction of all the parks and park-ways of the city and county, and perform such other duties as may be prescribed by the commission, with such other assistants and salaries payable out of the park fund, as may be authorized by the commission, with the approval of the mayor.

Section 96. The commission shall hold a regular meeting on the first Tuesday of each month, and may by rule provide for special meetings and service of notice thereof. A majority of the members shall constitute a quorum, and no action of the commission shall be binding unless authorized by a majority of the members at a regular or duly called special meeting thereof.

Section 97. The commission shall, with the approval of the mayor, have full, complete and exclusive power and authority to expend for and on behalf of the city and county, all sums of money that may be raised by general taxation for park purposes, and all other sums of money appropriated by the council from the general revenues for the same purposes; and all moneys that may be realized by the commission from the sale of privileges in or near the parks of the city and county, or realized from the

sale of the general bonds of the city and county and set apart for park purposes, or from the sale of the park district bonds hereinafter provided for.

Section 98. The fiscal year of the department of parks shall end on the thirty-first day of December of each year, and during the month of January of each year the commission shall make an annual report to the mayor and council of all moneys received and expended in the purchase, improvement and maintenance of parks, showing when, where, how and in what manner the same were received and expended, and what improvements have been made during the year preceding the report.

Section 99. The commission shall have exclusive management and control of all parks and park-ways, and exclusive power to lay out, regulate and improve the same, and to prohibit certain or heavy traffic therein, and to grant or refuse licenses to vend goods on the streets or sidewalks within three hundred feet of any park entrance and on the streets and sidewalks adjoining parks, and the council shall, by ordinance provide for the enforcement of the rules and orders of the commission in relation thereto.

No franchise, license or permit for the construction or maintenance of any railway shall ever be granted within the limits of any park or lengthwise upon any park-way. Nor shall any franchise for the maintenance of any other special privilege within any park be granted.

The commission shall have exclusive management and control of the city ditch, and the distribution of water therefrom, within and without the city and county.

Section 100. The commission may establish a building line or lines, determining the distance at which all structures to be erected upon any private premises fronting any park or park-way under the jurisdiction of the commission shall be erected upon

such premises, and may, in the name of the city and county, prevent the erection and require the removal of all structures outside said lines, and no permit shall be issued authorizing the erection of any structure outside the building line so established.

Section 101. No portion of Congress park, or of any other park now belonging to or hereafter acquired by the city and county, shall be sold or leased at any time.

Section 102. Real or personal property may be granted, bequeathed, devised or conveyed to the city and county for the purpose of the improvement or ornamentation of any park, boulevard, pleasure-way or park-way, or for the establishment or maintenance therein of museums, zoological or other gardens, collections of natural history, observatories, libraries, monuments or works of art, upon such trusts or conditions as may be approved by the commission and council; and all such property or the rents, issues and profits thereof shall be subject to the exclusive management and control of the commission. The commission may also provide such accommodations and take such preliminary steps as the moneys at their disposal will justify for the securing and preservation of collections of natural history and the establishment of museums in the parks.

Section 103. No moneys levied or appropriated by the council or by this charter for park purposes and remaining unexpended at the end of any fiscal year, shall be converted into the general fund nor be subject to appropriation for general purposes.

Section 104. The commission shall have such additional powers relating to parks and boulevards as may be prescribed by ordinance.

Section 105. In case a bonded indebtedness of the city and county is incurred for the purpose of acquiring lands for parks or park-ways, the proceeds thereof shall be used in acquiring lands in the several

park districts herein prescribed, in proportion to the assessed valuation of the real estate in each district.

As a part of the annual levies authorized by this charter, the council shall annually assess and collect upon each dollar of taxable property within the city and county at least one and one-third mills, the proceeds of which shall be collected in the same manner as other city and county taxes, and when collected shall be set apart and constitute an improvement and maintenance fund for park purposes.

All moneys collected as taxes levied for the maintenance and improvement of parks and park-ways, shall be expended by the commission as in their judgment the needs of the several park districts require.

DEPARTMENT OF HEALTH.

Section 106. There shall be a health commissioner, who shall be appointed by the mayor and have control of the department of health, whose term of office shall be four (4) years; he shall be a licensed physician and have been engaged in the practice of medicine in the city and county for at least five (5) years; he shall appoint such assistants, within his appropriation, as may be required.

He shall have control of the city and county hospitals, the Steele Memorial hospital, and shall provide, maintain and have charge of a morgue. He shall attend the sick in jails, houses of detention, and care for and direct the admission and discharge of patients at the city and county farm. He shall have the sanitary supervision of all institutions of the city and county, including jails, houses of detention, schoolhouses and public buildings; of the disposition of the dead; of the plumbing and drainage and sewerage of buildings, of markets and of all matters pertaining to the preservation and protection of the lives and health of the people. He shall, at least quarterly, visit every institution in the city and county, private or public, maintained for the care of the sick, injured, indigent

insane or minors. He shall have control of the removal and disposition of all garbage, offal and other offensive substances, and may enter into such time contracts for the removal and disposition of the same as in his judgment he may deem to be to the best interests of the city and county and to the health and comfort of the inhabitants of the same.

Section 107. Upon probable cause, supported by oath or affirmation, a warrant may be issued by any justice of the peace authorizing the health commissioner to enter into any dwelling. He may enter upon any other premises in the day time without such warrant and in the exercise of his duties of office may command the services of the police.

Section 108. The health commissioner shall appoint two (2) licensed physicians, who shall serve without compensation and who shall act with him as a medical advisory commission. The commission shall define the duties of the physicians and surgeons of the visiting staff of the hospitals and similar institutions of the city and county.

Section 109. The members of the visiting staff shall be appointed by the medical advisory commission annually, removed only for cause, be eligible to reappointment and serve without compensation.

Section 110. The city and county physicians shall be appointed by the health commissioner, have charge of the receiving and emergency wards and hospitals and perform such other duties as may be prescribed by the health commissioner.

The resident physicians in the hospitals of the city and county shall be appointed by the health commissioner, and serve without compensation, other than board and lodging during their term of service.

Section 111. The council shall provide for the maintenance, enlargement and improvement of the Steele Memorial hospital for contagious diseases of children, and provide accommodation for the care of

persons with contagious diseases, who are required to be removed thereto or who are able to pay a proper compensation.

Section 112. The health commissioner shall keep a record of the work done in the institutions under his control, collecting and preserving such statistical information relating to his department, as may aid the advancement of science, and publish reports of the same.

DEPARTMENT OF CHARITY AND CORRECTION.

Section 113. There shall be a commission of charity and correction consisting of three members, appointed by the mayor for the term of two (2) years. The commission shall have control of the department of charity and correction and shall serve without compensation. The commission may appoint a secretary and such other employes as may be necessary, with the approval of the mayor, and whose compensation shall be provided by ordinance.

Section 114. The commission shall have charge of all charitable work done by the city and county; have charge of the city and county farm, of the detention school, and may establish and have charge of a municipal lodging house, and shall make and enforce rules for the government of said institutions. They shall perform such other duties, not inconsistent with the general laws of the state and the provisions of this charter, as the council may, by ordinance, require; *Provided, however*, Nothing herein shall be construed to prevent the council from making appropriations to charitable organizations, to be administered by them.

Section 115. The commission shall appoint the superintendent of the city and county farm, with the approval of the mayor.

Section 116. The commission shall visit all charitable institutions, all jails and all institutions

of the city and county where sick, insane, destitute or other persons are confined, and may cause any person convicted of violating any law or ordinance, and who is confined or on parole, to be examined as to the causes contributing to the delinquency; a record of such examinations to be made and kept.

Section 117. The commission shall keep advised as to the management of all institutions receiving public money, and is empowered to enter and examine into the management of any charitable institution, public or private, at any reasonable hour.

Section 118. The commission shall visit the city and county farm at least once each month; shall visit the city and county hospitals and may recommend to the mayor any change in management deemed advisable.

Section 119. A record of all proceedings of the commission, recommendations made regarding any institution, reports of investigations of hospitals and similar institutions and a record of each case of relief afforded, and such other records as may be ordered by the commission, shall be kept by the secretary.

Section 120. There shall be established and maintained a detention school, not connected with any jail, which shall be in charge of a superintendent. The superintendent shall be appointed by the juvenile court (county court) of the city and county, provided such appointment must be first submitted to the commission for its approval as to the qualification of the appointee. It shall be the duty of the commission to approve or disapprove such appointment within thirty days after the submission thereof; such appointment shall be considered approved in case the commission shall fail within said time to take any action thereon. The superintendent must be qualified to instruct and teach children in branches of education similar to those of the public schools of the city and county. Such school shall be supplied with

all necessary teachers, help and convenient facilities for the care of inmates thereof. The employes thereof shall be appointed in like manner as the superintendent. Children under sixteen years of age, arrested for any cause, may, by order of the juvenile court, unless otherwise provided by the juvenile court act, be held in the detention school until final judgment. They shall receive schooling and professional services when required. No child fourteen years of age or under shall be incarcerated in any common jail or lock-up.

The superintendent shall keep a record of such children and such other information as may be required by the juvenile court (the county court) of the city and county, or the commission.

ART.

Section 121. There shall be an art commission appointed by the mayor, who shall be ex-officio a member of said commission. The commission shall consist of six members, of whom two shall be professional artists, one of whom shall be a sculptor, and such two members shall be appointed from lists of names prepared and submitted by "The Artists Club" or "The Municipal Art League" of Denver, and one member shall be a professional architect; the others shall not be persons pursuing the profession of art or architecture. The first appointments shall provide two members for a term of six years, two members for a term of four years, and two members for a term of two years; and thereafter two appointments for the term of six years shall be made biennially. Vacancies shall be filled by the mayor.

Section 122. The commission shall have control of all matters of art pertaining to the city and county, and advise the mayor and council with relation thereto, and serve without compensation.

No work of art shall become the property of the city and county, or subject to its control, unless such

work or the design for the same, together with a statement of its proposed location, shall have been approved by the commission. No such work of art shall be removed, re-located or altered, except with the approval of the commission.

No member of the commission shall receive payment from the city and county for the design or execution of any work of art.

Section 123. The term "work of art" shall include all paintings, stained glass windows, mural decorations, statues, bas-reliefs, seals, medals, sculptures, monuments, fountains, arches, ornamental gateways and other structures of a permanent character intended for ornament or commemoration.

Section 124. No contract or order for the execution of any work of art for said city and county shall be made until submitted to the commission and its approval secured.

LIBRARIES.

Section 125. There shall be a library commission, consisting of eight members, who shall serve without compensation. The present board of directors of the public library of the city of Denver, together with two women to be appointed by the mayor, shall constitute said commission. As soon as constituted, the commission shall divide by lot into four classes to hold office for two, four, six and eight years, respectively. At the end of two years and every alternate year thereafter, the mayor shall appoint two persons to serve for a term of eight years. There shall always be two women on the commission.

Section 126. The commission shall have exclusive control of the public library, branches thereof and reading rooms, of all money appropriated therefor, of all property or money otherwise acquired for such purposes, of the acquisition by purchase, construction, or lease, of grounds and buildings for such purposes; of the administration of gifts and trusts, and

power to do any and all things necessary or expedient in connection with library purposes.

Section 127. The council shall annually appropriate not less than thirty thousand dollars for the maintenance of the public library.

Section 128. The library and its branches shall, as far as practicable, be conducted upon the open shelf system.

Section 129. The North Side reading room and the South Platte library, when transferred to the city and county, shall be maintained as reading rooms, and the commission shall establish such branch libraries, reading rooms and delivery stations as may be expedient.

Section 130. The commission shall make an annual report to the mayor, stating the condition of its trust, the various sums of money received from the library fund and other sources, and for what purposes such sums of money have been expended; the number of books and periodicals on hand, the number added by purchase or gift, the number lost or missing and the general character of such books, the number of visitors, and such other information as may be deemed of general interest.

ARTICLE IV.

JUDICIAL DEPARTMENT.

COUNTY COURT.

Section 131. The county court of the city and county shall consist of two judges, who shall have the qualifications required by the constitution and general laws of district judges.

Section 132. The jurisdiction of the county court shall be as prescribed for county courts by the constitution and general laws and as prescribed by the charter.

Section 133. Judges of the county court shall appoint a clerk and such deputy clerks as may be required in accordance with general law unless otherwise prescribed by ordinance, and such probation officers as may be required by general law. In case of any disagreement between the judges as to the appointment of the clerk as in this section provided, then the judge who is senior in point of service as such judge shall control and make such appointment. As to other subordinate officers, including probation officers, in case of a disagreement the appointments shall be divided as near as practicable equally between the judges. Each judge shall appoint his stenographer, bailiff and division clerk.

Section 134. The judges may sit *en banc* at such times as they may determine for the purpose of making rules of court, the appointment of the clerk, the approval of the appointment of deputies other than division clerks, the approval of official bonds and such like ministerial duties, but for no other purpose whatever; and the court so sitting *en banc* shall have no power to review any order, decision or proceeding of the court held by either judge sitting separately.

Section 135. While sitting *en banc* one of the judges shall act as presiding judge, and at the first term the judge oldest in office shall act as presiding judge; at the next succeeding term the other judge shall act, and thereafter they shall preside at the several succeeding terms alternately and in regular rotation, each during the period from the commencement of one term to the commencement of the next succeeding term. But the court may at any time change the rule of presiding as its convenience may require.

Section 136. In addition to the ordinary power of making rules, such court sitting *en banc* may make all rules which its peculiar organization may require different from the ordinary course of practice and necessary to facilitate the transaction of business in

the courts held by the judges sitting separately, and may by rule provide for the classification, arrangement and distribution of the business of the court between the judges thereof, and each shall attend to the business of the court so assigned, and when not occupied by the business assigned to him, shall, so far as practicable, aid the other judge, to which end cases may be sent from one judge to another, as the judges may agree and direct; *Provided*, That all rules for the government of the court held by the judges sitting separately shall be the same for each of the judges.

Section 137. The clerk of said county court shall keep one record, in which shall be recorded only the proceedings of said court *en banc*. The judges sitting separately shall cause such minutes of their proceedings to be kept as may be deemed necessary or expedient; but nothing in this act shall be construed to authorize any change in the manner of keeping the records of the court in civil actions, such as the register of actions, the judgment book, the judgment docket and the like, and there shall be only one set of such books kept for said court.

Section 138. Jurors may be summoned and empaneled for each of the judges sitting separately as though each were the sole court. The court shall be divided into two divisions, and in the docketing of cases all odd numbers shall belong to Division One, and all even numbers to Division Two, unless otherwise hereafter by ordinance provided.

Section 139. At the next city and county election two judges shall be elected, one of whom shall be for the short term. The judge elected for the short term shall, within thirty days after his election, duly qualify and enter upon the duties of his office, and shall hold such office until the second Monday of January, 1907, and until his successor is duly elected and qualified; and the judge elected for the long term shall enter upon the duties of his office on the second Tuesday of January, 1905, and hold office for the

term of four (4) years, and until his successor is duly elected and qualified; and except as otherwise herein provided, the judges of the county court shall be elected one every two years and each for the term of four years, and said judges shall be elected at the same time and manner as other officers of the city and county, and at the general city and county election next preceding the expiration of the respective terms of office of the judges in office. In case of a vacancy occurring, from any cause, the mayor, by and with the consent of the board of supervisors, shall appoint a person, possessing the qualifications herein provided for county judges, to act as such judge until his successor is duly elected and qualified, and at the general city and county election next following such vacancy a judge shall be elected to hold office until the end of the unexpired term, provided such vacancy occurs more than forty-five days before such election.

Section 140. On or before the first day of February in each year, the clerk shall make a report to the mayor for the preceding fiscal year, giving the following information as to probate, juvenile, civil and criminal business of said courts, separately arranged; the number of cases appealed to and commenced in said courts, the trial docket number of all cases appealed to and commenced in and pending in said courts, number of judgments rendered, what appeals have been taken therefrom and to what courts, the amount of fees, costs, fines, penalties and forfeitures imposed and the amounts thereof collected, and such other information as the mayor or council may require.

JUSTICES' COURTS.

Section 141. The justices' courts of the city and county shall consist of three justices of the peace, and no person shall be eligible to said office unless he shall have been for three years preceding his election duly qualified to practice as attorney and counsellor at law in all the courts of this state. Except as

herein otherwise provided, the terms of office of said justices shall be for two years.

Section 142. The justices' courts shall have exclusive original jurisdiction of all cases arising under the charter and the ordinances, with power to carry the same into effect by the imposition of such fines and penalties as may be thereby provided, and to compel the attendance of witnesses and punish for contempt by fine not to exceed fifteen dollars. Said courts shall have the same jurisdiction and possess all the powers, perform all the duties and be subject to all the liabilities conferred and imposed upon, and be governed by the same procedure, including appeals to the county court, provided for justices of the peace by the constitution and general laws of the state. The said justices shall each give bond, as provided in the general laws for justices of the peace, which bond shall be approved by the mayor. In addition to the requirement of such bond by the general laws of the state, the council shall have power to provide such other conditions as it may see fit.

Section 143. The justices of the peace aforesaid may, until otherwise provided by ordinance, agree among themselves to rotate in hearing all cases arising under the ordinances of the city and county.

Section 144. Until changed by ordinance, the procedure, including appeals to the county court, prescribed by the act of the legislature entitled, "An act to provide for the creation and organization of police magistrate courts in cities having a population of 25,000, or more inhabitants; to prescribe the jurisdiction, powers and proceedings of such courts, and to define the duties, qualifications and compensation of the police magistrates and other officers connected therewith, and to repeal certain acts," approved March 18, 1885, and all acts amending the same, shall, so far as applicable, govern the justices' courts.

CLERKS OF JUSTICES' COURTS.

Section 145. Each justice shall appoint his clerk, and each clerk shall keep a register of his court, the actions in, and record of the proceedings of each case, including all fees and money collected, a direct and inverse index thereof, and prepare a docket for his court, in which the judgments in each case shall be noted by the justice thereof. The said clerks shall have power to administer oaths and affirmations, which they shall do when requested in all matters in their respective courts; and shall issue all writs in cases brought for violation of ordinances, collect all fees, fines, penalties and costs; and when requested by litigants or parties, shall prepare all writs and other papers pertaining to the business of their respective courts. Said clerks shall each give a bond to the city and county, conditioned for the faithful performance of his duties and the paying over of all moneys, fees, fines and penalties received by him, together with such other conditions as may be prescribed by ordinance. The form of the bond of said clerks may be as prescribed by ordinance, shall be approved by the mayor; and the penalty of such bond shall be three thousand dollars (\$3,000.00).

Section 146. On or before the first day of February of each year each clerk shall make a report to the mayor for the preceding fiscal year, showing the title and docket number of all cases commenced and pending, with the amount of fees, costs, fines, penalties and forfeitures, the amount thereof paid, whether the defendant has been committed to jail for default in the payment thereof, the names of all defendants appealing and the names of all defendants pardoned by the mayor.

Said clerks shall also perform such additional duties and be subject to such additional liabilities as may be imposed by ordinance.

CONSTABLES.

Section 147. There shall be elected by the city and county as herein provided, three constables, and except as herein otherwise provided, they shall hold their terms of office for two (2) years. Such constables shall perform all the duties and be subject to all the liabilities provided for constables by the constitution and general laws of the state, and shall also perform such additional duties and be subject to such additional liabilities as may be imposed by ordinance.

Before entering upon the performance of their duties, the said constables shall each give a bond for the faithful performance of his duties, as is provided for constables by the general laws of the state, which bond shall be approved by the mayor. The council shall have power by ordinance to prescribe such additional forms for, and conditions in, said bond as it deems proper.

Section 148. The council shall have power, by ordinance, to provide for such deputy constables as may be necessary, not to exceed three in number.

ARTICLE V.

OFFICERS AND SALARIES.

Section 149. Except as herein otherwise provided, when elected, officers must be not less than twenty-five years old, and citizens of the United States for five years, and all officers, in addition to other qualifications required, must be electors of the city and county.

Section 150. Except as otherwise provided, boards, commissions and heads of departments shall be appointed by the mayor, and shall possess the same qualifications required of elective officers by the preceding section, and hold office during his pleasure.

Section 151. Before entering upon the duties of his office, every officer elected or appointed shall take and subscribe before a judge of a court of record, and

file with the clerk of the city and county, an oath or affirmation that he will support the constitution of the United States and of the state of Colorado, the charter and ordinances of the city and county, and will faithfully perform the duties of the office upon which he is about to enter.

Section 152. The following named officers shall each give an official bond, with good and sufficient surety, to be approved by the mayor, conditioned among other things for the faithful performance of each and all of the duties of their respective offices, without fraud, deceit or oppression, and the accounting for all moneys and property coming into their hands and the prompt and faithful payment of all moneys, and the delivering up of all property coming into their custody, to their successors in office, possession or control belonging to the city and county.

The penalties in the bonds required by this section shall be as follows: For auditor, engineer, commissioner of supplies, building inspector, assessor, sheriff, clerk of county court, each county judge, ten thousand dollars; clerk, recorder, each member of the fire and police board, each member of the board of public works, five thousand dollars; coroner, two thousand dollars; county superintendent of schools, one thousand dollars. The council shall have power by ordinance to impose additional conditions in said bonds, or to change the amount of the penalties; *Provided, however,* That the amount of the penalty in each bond shall not be less than in this section provided. Except as otherwise herein provided, official bonds shall be given by such other officers and employes, in such amounts and so conditioned, as may be provided by law or by ordinance; and until so provided, such official bonds shall be so conditioned, and in such amounts as the mayor, auditor and treasurer may require.

Section 153. The following annual salaries shall be paid to officers named in the various departments:

Mayor, six thousand dollars; attorney, assessor, each county judge, auditor, treasurer, sheriff, engineer, four thousand six hundred dollars; president of the board of public works, commissioner of health, four thousand dollars; recorder, three thousand six hundred dollars; clerk, commissioner of highways, commissioner of excise, clerk of the county court, chief of police, chief of the fire department, commissioner of supplies, three thousand dollars; under sheriff, first assistant attorney, electrician, building inspector, commissioner of police, commissioner of fire, two thousand five hundred dollars; each justice of the peace, and each county court stenographer, two thousand dollars; second assistant attorney, boiler and elevator inspector, superintendent of street sprinkling, eighteen hundred dollars; each constable, third assistant attorney, president of the board of supervisors, fifteen hundred dollars; each clerk of justice of the peace, each deputy constable, attorney's stenographer, each supervisor, president of the board of aldermen, market master, twelve hundred dollars; each alderman, each election commissioner, one thousand dollars; coroner, county superintendent of schools, nine hundred dollars.

The members of the police department shall each receive the following annual salary: Captain of detectives, eighteen hundred dollars; police captains, fifteen hundred dollars; police and desk sergeants, roundsman with rank of sergeant, custodian of stolen goods, twelve hundred and sixty dollars; detectives, police surgeons, twelve hundred dollars; jailors, eleven hundred forty dollars; patrolmen, ambulance drivers, patrol wagon drivers, police operators, ten hundred twenty dollars. The number of patrolmen shall not be less than one hundred and twenty-five nor shall there be more patrolmen at any time than one for every one thousand population as shown by the last preceding United

States census. The members of the fire department shall each receive the following annual salary: Assistant chiefs, chief's secretary, fifteen hundred dollars; captains, twelve hundred dollars; engineers, machinists, eleven hundred forty dollars; lieutenants, ten hundred eighty dollars; assistant engineers, ten hundred fifty dollars; hosemen, laddermen, drivers, operators, fire wardens, assistant machinists, ten hundred twenty dollars.

All persons in the employ of the city and county, or any of the departments thereof, whose salary or compensation is not fixed by this charter, are hereby declared to be employes, and except as herein otherwise provided the council shall, by ordinance, provide for their compensation and for the terms, conditions and duties of their respective employment; and until such compensation has been fixed by ordinance, as aforesaid, the same shall remain as now provided by the general statutes or the ordinances.

Section 154. Heads of all departments, boards and commissions shall, within their respective appropriations, employ such other assistants as may be needed, and pay such reasonable salaries as they may determine.

Section 155. All officers, boards and commissions in addition to their specified duties, shall render such other service as may be required by ordinance. All boards and commissions shall keep a record of their proceedings, their meetings, and all their official documents, and records shall be public.

Section 156. Except as otherwise herein provided, the officers who shall respectively perform the acts and duties required of county officers to be done by the constitution and the general laws, in all cases not specifically provided for, so far as applicable, shall be as follows: The county judges shall perform the acts and duties required of county judges; justices of the peace, the acts and duties required of justices of the peace; constables and deputy consta-

bles, the acts and duties required of constables; the engineer, the acts and duties required of county surveyor; the board of supervisors, the acts and duties required of boards of county commissioners; the board of supervisors shall act as a board of equalization and perform the acts and duties required of a board of county commissioners when sitting as a board of equalization; the assessor, the acts and duties required of county assessor; the treasurer, the acts and duties of a county treasurer; the sheriff, the acts and duties required of sheriff; under-sheriffs, the acts and duties required of under-sheriffs; deputy sheriffs, the acts and duties required of deputy sheriffs; recorder, the acts and duties required of county clerk as ex-officio recorder; the coroner, the acts and duties required of coroner; the election commission, the acts and duties required of a board of county commissioners, county clerks and justices of the peace in all matters pertaining to registration and elections.

In case no officer has been specially mentioned to perform the duties of any county officer, or in case any new county office is created, then such office shall be filled by appointment by the mayor, who shall appoint thereto some official of the city and county, who shall thereafter perform the acts and duties required by the constitution or by the general laws to be done by such county officer.

Section 157. The mayor, members of the council and all members of the fire and police board, are hereby made conservators of the peace and are authorized to make arrests, either with or without process, of any offender against the laws of the state or the ordinances of the city and county, and with all the powers herein conferred upon the chief of police.

Section 158. The health commissioner and all health inspectors, and such persons as are detailed to have charge of the city and county dumps, in the line of their respective duties, shall have the same powers as policemen.

Section 159. All fees and compensation of any kind allowed to county officers by law shall be collected by the officers designated to perform the acts and duties required of county officers and paid to the treasurer as in the charter provided, and no officer shall be paid any fee or compensation beyond that fixed by the charter.

Section 160. Officers shall deliver all books, records and property belonging to the city and county to their successors in office, who shall give duplicate receipts therefor, one of which shall be filed with the auditor.

Section 161. Every appointive officer and employe under the city and county government shall be required to pay, with reasonable promptness, his debts and liabilities incurred after his employment for all family necessities, including the ordinary necessary expenses of daily life; and if any such officer or employe shall fail or refuse so to do, after reasonable notice from the head of his department, every such officer or employe so in default shall be removed and dismissed from the public service.

Section 162. All members of the police and fire department shall be entitled to and shall receive full pay for such time as they may be temporarily incapacitated from service, on account of injuries received or sickness contracted while in the performance of their duties as members of said department, said allowance or pay to be approved by the chief of said department and the proper examining physician, they shall also be entitled to a vacation of fifteen days each year with full pay during such time.

IMPEACHMENT AND REMOVAL FROM OFFICE.

Section 163. The mayor may present to the board of aldermen charges for impeachment against any elective officer, and said board, by a three-fourths vote, may prefer articles of impeachment against such elective officer. The board of aldermen, by a three-

fourths vote, may prefer articles of impeachment against the mayor or any other elective officer.

Section 164. All impeachments, except against members of the board of supervisors, shall be tried by the board of supervisors, and at such trial one of the judges of the county court shall preside and determine all questions of law. All questions of fact shall be determined by the board of supervisors, but said county judge shall not have a vote in determining any question of fact. The board of supervisors shall determine the guilt or innocence of the accused, but there shall be no conviction upon the charges set forth in the articles of impeachment unless five of the members of the board of supervisors vote for such conviction, in which case their decision shall be final.

All impeachments against members of the board of supervisors shall be tried by the county court. All questions of fact in any such impeachment case shall be determined by a jury of twelve free holders, and the decision of the court shall be final.

The attorney shall prosecute articles of impeachment, but the board of supervisors shall have power to employ other or additional counsel.

Section 165. Elective officers may be impeached only for high crimes, malfeasance, or corrupt practices in office, but judgment in such case shall only extend to removal from office and disqualification to hold any office of honor, trust or profit in the city and county. Such officers, whether acquitted or convicted, shall, nevertheless, be liable to prosecution, trial, judgment and punishment according to law.

ARTICLE VI.

ELECTIONS.

Section 166. A general city and county election shall be held in the various precincts in the city and county of Denver on the third Tuesday in May, A. D. 1904, and every two years thereafter, by the qualified electors thereof.

Section 167. At the first city and county election there shall be elected a mayor, sheriff, auditor, assessor, treasurer, clerk, recorder, coroner, county superintendent of schools, two judges of the county court, sixteen aldermen, seven supervisors, three justices of the peace, three constables.

Section 168. The term of all elective officers, except as otherwise provided herein, shall commence on the first secular day of June following their election, and, except as otherwise provided herein, shall be four years and until their successors are elected and qualified.

ELECTION COMMISSION.

Section 169. A temporary election commission is hereby created, and Francis F. Graves, Edward C. Soetje and Harry C. Riddle are hereby named to serve as commissioners thereof until their successors, who shall be elected at the election to be held hereunder in May, A. D. 1906, qualify.

Section 170. At the second general city and county election held hereunder for the election of officers, there shall be elected three persons possessing the qualifications herein mentioned, who shall constitute an election commission.

Section 171. At the time of his election or appointment, each commissioner shall be at least twenty-five years of age, a duly qualified elector and tax payer in and for the city and county, and have been a citizen of the United States for at least five years.

Section 172. Persons possessing the qualifications herein mentioned may be nominated for the office of election commissioner in the same manner as is prescribed by general law for the nomination of candidates for other city and county offices; *Provided, however*, the same person shall not be placed as a candidate upon more than one ticket, nor shall there be more than two candidates for the said office upon any

one ticket. The three persons receiving the greatest number of votes shall be the election commissioners.

Section 173. Should the office of any election commissioner become vacant, the mayor shall forthwith fill such vacancy by appointing to said office such person as shall be nominated by the chairman representing the political party, or the person representing the ticket, of which the commissioner whose office becomes vacant was at the time of his election or appointment a representative.

Section 174. Each member of said commission shall have the right and power, and it shall be his duty, to appoint annually one of the three election judges in each precinct; *Provided, however*, that one of the said judges shall be of different political faith from either of the other two; all of whom shall be qualified electors of the precinct.

The judges of election in each precinct, to be appointed as aforesaid, shall be over the age of twenty-five (25) years, and said judges of each election precinct shall appoint two clerks for each election, but such clerks shall not both be of the same political faith. The conduct, management and control of the registration of voters, and of the holding of elections, canvassing the returns thereof and issuing certificates of election, and of all other matters pertaining to elections in the city and county, shall be vested exclusively in and exercised by the election commission, which shall perform all the duties, joint, several or otherwise of city and county officers or employes required to be done by the constitution or by general law in relation thereto, and the action of the commission on all questions passed upon by it shall be final; *Provided, however*, at the first election hereunder the said temporary commission may use as its registration of voters the permanent registration prepared by the clerk, who shall deliver to said election commission such permanent registration records, ballot

boxes, registration and election blanks and stationery in his custody not later than twenty days after the day of election for the charter, in case the same shall be adopted.

Section 175. The temporary election commission named herein shall have full power to make and enforce rules for the management and conduct of primary elections and shall upon written request of either side of any controversy growing out of primary elections hear and determine such controversy.

Section 176. The election commission shall meet within five days after every election and canvass the returns thereof, and forthwith issue a certificate of election to the persons entitled thereto. All meetings of the election commission shall be open to the public.

Section 177. If the election of any officer or officers shall fail, in consequence of a tie vote between two or more persons for the same office, the election commission shall cast lots among those persons having a tie vote, in such manner as they shall first prescribe by resolution, and the person who shall be successful according to the terms of such resolution, in the casting of such lots, shall be declared elected.

Section 178. The general law concerning elections, including that in relation to the qualification of electors, registration of voters, the nomination of candidates, calling and conduct of elections, the form of ballots therefor, canvassing of the returns thereof, issuing of certificates of election and the punishment of election frauds and offenses, shall be in full force and effect in the city and county, except as otherwise provided herein.

Section 179. At any election at which any measure, charter amendment, proposal for a charter convention or ordinance, shall be submitted to a vote of the qualified electors, the official ballot shall, by proper words to be provided by ordinance, show the nature of the measure, charter amendment, proposal

for a charter convention or ordinance, to be voted upon, and shall give to each voter the right to place a cross mark upon his ballot showing clearly his intention to vote for or against said measure, charter amendment, proposal for a charter convention or ordinance, and in case any separate or alternative proposition or propositions be submitted, the ballot shall be prepared so as to enable the voter to express his intention in regard to each proposition.

Section 180. In case any officer of the city and county shall become ineligible during his term of office, his office shall thereby become vacant.

Section 181. No officer or employe of the city and county shall be interested, directly or indirectly, in any contract with the city and county, or be in the employ of any person having any contract with the city and county.

Section 182. All cases of contested elections shall be tried under the procedure prescribed by general law by the county court, except a contest for the office of county judge, which shall be tried as prescribed by general law, and except as otherwise provided herein.

Section 183. The council shall immediately upon the adoption of this charter provide the election commission with suitable offices and supplies, and said commission is hereby authorized within its appropriation to employ such assistants at the expense of the city and county as may be necessary to enable it to fulfill its duties.

Section 184. The officers and employes of the city and county at the time of the adoption of this charter shall continue in office and perform the acts and duties of their respective positions until the election or appointment of their successors or of the officers who are to perform their respective duties as herein provided, and except as herein provided concerning the election and civil service commissions, the powers and duties to be exercised or performed by the

officers or employes provided by this charter shall not become effective until the officers elected at the first municipal election hereunder shall have qualified.

ARTICLE VII.

CIVIL SERVICE.

Section 185. There is hereby created a civil service commission, composed of Daniel B. Carey, J. Frank Adams and Frederick J. Chamberlin, who shall serve two years from and after the adoption of this charter. As successors of said commissioners the mayor shall thereafter appoint three persons of known devotion to civil service reform as civil service commissioners, to serve, one for six years, one for four years and one for two years from the date of their appointment, and until their respective successors are appointed and qualified, and every alternate year thereafter, the mayor shall appoint one person as the successor of that commissioner whose term shall expire in that year, to serve for the term of six years from the date of his appointment and until his successor is appointed and qualified. Any vacancy occurring in the office of commissioner shall be filled for the unexpired term by appointment as above provided. All appointments, both original and to fill vacancies, shall be so made that not more than two commissioners shall at the time of appointment be adherents of the same political party.

The mayor may remove any commissioner appointed under this act for incompetency, inefficiency, neglect or violation of the provisions of this act, or of the rules and regulations in force hereunder, or any of them, or for any other cause which renders him unfit for the position, after first specifying in writing the particulars of the incompetency, inefficiency, neglect of duty or violation, or any other cause charged, and giving said commissioner an opportunity to make a personal explanation and be heard in self-defense.

Section 186. The commissioners shall serve without compensation, but shall be paid their necessary expenses actually incurred in the discharge of their official duties.

Section 187. The commission may employ a secretary, who shall be paid a salary of twelve hundred dollars a year, and an examiner for temporary service, at a salary of not exceeding five dollars per day.

Section 188. The commission shall control all examinations, and may, whenever an examination is to take place, designate a suitable number of persons, either in or not in the official service of the city or county, to be examiners or assistants at said examination, and if in the official service, it shall be a part of their official duty, without extra compensation, to conduct such examinations as the commission may direct, and to make return and report thereof to the commission, which may at any time substitute any other person, whether in or not in such service, in the place of any one so selected. The commissioners may themselves act as such examiners, and all officers of the city or county shall assist them in every proper way in carrying out the provisions of this act.

Section 189. The commission shall have power to make and enforce rules, which rules shall be printed for distribution, and a copy sent to each officer, board and commission having the right to employ any person in the classified service. No rule shall become effective until ten days after publication in the official newspaper.

Section 190. The rules shall provide for a classification of all employments in the public service, as specified herein, other than day laborers and unskilled workmen; open and competitive examinations as to fitness; an eligible list from which vacancies shall be filled; a period of probation before employment is made permanent; promotion on basis of merit, experience and record.

Section 191. The commission shall investigate all breaches of this article, and may compel the attendance and testimony of witnesses, and the production of books and papers.

Section 192. The classified service within the civil service regulations shall include only the police and firemen and other officers and employes of the department of fire and police and the officers and employes of the department of public utilities and works, excepting, however, from said regulations the chief of police, engineer, commissioner of highways, chief inspector of the board of public works and members of the boards of fire and police and public works, and one employe under each of said boards, who shall be the secretary thereof; *Provided*, that after the expiration of four years from the adoption of this charter the council may, by ordinance, extend the civil service provisions to any or all other departments.

Section 193. Applicants for appointment shall be citizens of the United States, and have resided in the city and county for one year next preceding the date of their application, but these restrictions shall not apply to positions in which special, expert or technical knowledge is required. Applicants shall not use intoxicating beverages to excess. Every application must be supported by certificates of good moral character, and physical and mental capacity.

Section 194. All examinations shall be impartial, and relate only to matters which will test the fitness of the persons examined for the service they wish to enter. No question shall relate to political or religious opinions or affiliations, and no appointment shall be in any manner affected by such opinions or affiliations. Notice of the time, place and scope of examinations shall be given by publication in the official newspaper.

Section 195. No person shall be certified for appointment whose standing shall be less than 65 per cent. of complete proficiency; *Provided*, that prefer-

ence shall be given to persons honorably discharged from the military or naval service of the United States, who served prior to January 1, 1866, and whose qualifications are otherwise equal.

Section 196. Those examined shall be graded according to their examination, and their grades shall be entered on a register. Such names shall remain on the register at least one year, but in no event more than two years without further examination.

Section 197. When a position is to be filled in the classified service, the appointing power shall make requisition upon the commission for the name of an eligible person, specifying the nature of the position to be filled, and upon receipt of such requisition, the commission shall certify the names of three applicants, if there be so many, having the highest percentage, one of whom shall be appointed. In case the requisition shall designate sex, only that sex shall be certified; otherwise sex shall be disregarded. If it be shown that all the persons certified are unsuitable for the position to be filled, the commission shall certify an additional name, but in such case, the reason shall be stated in the certification.

Section 198. In cases where the commission is unable to comply with the requisition from the eligible list, it may allow a provisional appointment, or it may authorize the appointing power to select a suitable person who shall be subject to examination, and if found qualified, certified for appointment.

Section 199. The commission shall provide for promotion in the classified service on the basis of ascertained merit and seniority in service and standing upon examination, and shall provide, in all cases, that vacancies shall be filled by promotion. All examinations for promotion shall be competitive among such members of each department, as desire to submit themselves to examination. The commission shall submit to the appointing power the names of not more than three applicants having the highest

rating for each promotion. The method of examining, the rules governing the same, and the method of certifying shall be the same, as near as may be, as provided for applicants for original appointments. Any increase in salary shall be considered a promotion.

Section 200. Every original appointment in the classified service shall be for six months, at the end of which time, if the conduct and capacity of the person appointed have been satisfactory, he shall be permanently appointed; otherwise he shall be out of the service.

Section 201. When the force in any department is reduced, the person last certified to such department for employment, shall be first laid off; and when the force in such department is increased persons suspended shall be reinstated in the order of their original certification.

Section 202. Appointments for temporary service shall be made in accordance with the provisions of this article, except in case of emergency. In no case shall an emergency appointment continue for more than sixty days, and no reappointment or employment to the same position at the end of such period shall be allowed. In every such case, the official making the appointment shall report the same to the commission within three days, with the reason therefor, and the time for which the emergency appointment is necessary.

Section 203. Transfers within the classified service may be made from one department to a similar position in another, without examination.

Section 204. All persons, at the time of the adoption of this charter, occupying positions affected by the provisions of this article, shall retain their positions until discharged, under the provisions hereof. Discharges from the classified service, or reductions in grade or compensation or both, may be made for any cause, not political or religious, which will pro-

note the efficiency of the service; but only on written specification by the authority making the discharge or reduction; and the person sought to be discharged or reduced shall have notice, a copy of the specifications, and be allowed reasonable time for answering the same in writing. A copy of the specifications, notice, answer and the order of discharge or reduction shall be made a part of the record of the division of the service in which the discharge or reduction is made, and a copy shall be filed with the commission. The commission may examine into the facts, and if the person has been wrongfully discharged, may reinstate him.

Section 205. No officer or employe shall discharge or change the rank or compensation of any other officer or employe, or promise or threaten to do so for giving, withholding or neglecting to make contribution or any service for any political purpose. No person shall, in any room or building occupied for the discharge of official duties, solicit or receive any contribution for political purposes.

Section 206. The commission shall keep in its office a public roster showing the name, residence, position, date of appointment, compensation and duties of each person in the service. The commission shall have access to all public records and papers, the examination of which shall aid in keeping the roster.

Section 207. The council shall furnish the commission with suitable offices, office furniture, rooms for examinations, books, stationery, blanks, printing, heat and light and all other necessary supplies, and shall provide for the payment of such other expenses as may be necessarily incurred in carrying out the provisions of this article.

Section 208. The commission shall certify to the auditor the name of every person, in the classified service, stating in each case the character and date of commencement of service, compensation and any change in such service. The auditor shall not issue a

warrant for the payment of any compensation to any person in the classified service not so certified. If the auditor shall issue any warrant except as herein provided, he and his sureties shall be liable for the amount thereof at the suit of the city and county or any taxpayer for its use.

Section 209. No person in the public service shall wilfully and corruptly, by himself or in co-operation with one or more persons, defeat, deceive or obstruct any person in respect to his or her right of examination, nor wilfully, corruptly or falsely mark, grade, estimate or report upon the examination or proper standing of any person examined hereunder, or aid in so doing, or wilfully or corruptly, make any false representation concerning the same or concerning the persons examined, or wilfully or corruptly furnish to any person any special or secret information for the purpose of either improving or injuring the prospects or chances of any person so examined or to be examined, appointed, employed or promoted.

Section 210. Any person who shall violate any of the provisions of this article shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding one hundred dollars, or imprisonment not exceeding thirty days, or by both such fine and imprisonment in the discretion of the court.

ARTICLE VIII.

FINANCE AND TAXATION.

Section 211. The fiscal year of the city and county shall commence on the first day of January and end on the last day of December of each year.

Section 212. The council, after deducting the amount collectible from other sources, shall levy upon all taxable property, real and personal, within the limits of the city and county, the amount of taxes for city and county purposes necessary to provide for the

payment during the ensuing fiscal year, of all properly authorized demands upon the treasury, not exceeding fifteen mills on the dollar for all general city and county purposes upon the total assessed valuation of said property, and shall also, in addition thereto levy the state and school district taxes. The foregoing limitation of fifteen mills shall not apply to taxes which shall annually be levied by the council for the payment of any bonded indebtedness of the city and county, now existing or hereafter created, or interest thereon, nor for sinking fund, nor for the indebtedness of any town or city heretofore consolidated with or hereafter incorporated with, or annexed to, the city and county, or of the interest thereon; nor to special assessments for local improvements.

Section 213. It shall be the duty of the assessor, as soon as the assessment roll is ready in each year for the extension of taxes, in accordance with general law, to certify the total amount of property assessed within the limits of the city and county to the council, whereupon the council shall proceed to make the proper levy in mills upon the dollar valuation to meet the expenses of the city and county, and cause the total levies, including school, state and special levies, to be certified by the clerk to the assessor, who shall extend the same upon the tax list of the current year, whereupon he shall issue a general warrant to the treasurer for collection.

Section 214. The treasurer shall collect said taxes in the same manner and at the same time as state taxes are collected, and all laws of this state for the assessment and collection of general taxes, including laws for the sale of property for taxes and the redemption of the same, shall apply, and have as full effect for the collection of taxes for the city and county as for such general taxes, except as modified by this charter. On or before the 5th day of every month the treasurer shall report the amount of tax collections for the preceding month to the auditor.

Section 215. All taxes levied for state and school purposes upon persons and property within the city and county shall be collected by the treasurer and paid out by him in conformity with the general laws of the state. All amounts so collected and disbursed or paid over shall be included in his reports to the auditor and council as required by this charter.

Section 216. On or before the first Monday of November in each year the heads of the various departments, offices and commissions of the city and county shall furnish the mayor an estimate in writing of the probable expenses to be incurred in their several departments for the ensuing fiscal year, specifying in detail such probable expenditures, including a statement of the salaries of their subordinates. Duplicates of these estimates shall be sent at the same time to the auditor.

The auditor shall, at the same time, also certify to the mayor the amount of money to be raised by taxation to pay the interest on bonded indebtedness, and to provide for the sinking fund.

Section 217. On or before the first Monday of December in each year the mayor shall present to the council a detailed statement of the amount necessary to defray the expenses of the city and county government, and of each department thereof, for the ensuing fiscal year, stating also the amount to be raised by taxation to pay interest on bonded indebtedness, and to provide for the sinking fund.

Section 218. The council shall meet in joint session annually between the first and third Mondays in December, and by a vote of the majority of the members thereof make a budget of the estimated amounts required to pay the expenses of conducting the public business for the next ensuing fiscal year, based on the mayor's budget, and for the other purposes required by this charter. The budget shall be prepared in such detail as to the aggregate sum and the items thereof allowed to each department, office or commis-

sion as the council shall deem advisable subject to limitations in this charter, but the council shall not change any item in nor the total of the mayor's estimate, except upon a vote of two-thirds of each body thereof.

Section 219. After the final estimate is made in accordance herewith, it shall be signed by the mayor and clerk and filed in the office of the auditor. The several sums shall then be appropriated by ordinance for the ensuing fiscal year to the several purposes and departments therein named. The total amount appropriated shall in no case exceed ninety (90) per cent. of the amount of money to be received during the year by taxation, estimated upon the assessor's valuation and the tax levy, and from other sources of revenue.

Section 220. The amount required to pay the interest on the bonded indebtedness and provide for the sinking fund shall always be provided for out of the tax on property.

CUSTODY OF PUBLIC MONEYS.

Section 221. All moneys arising from taxes, licenses, fees, fines, penalties and forfeitures, and from any other source whatsoever, which may be collected or received by any officer of the city and county, or any department thereof, in his official capacity, for the performance of any official duty, shall be paid into the treasury. No officer or person other than the treasurer shall pay out or disburse such moneys or any part thereof, except as herein otherwise provided. No officer, deputy, clerk or employe of such officer, shall receive or accept any fee, compensation or payment, other than his salary as now or hereafter fixed by this charter, or by ordinance, for any work or service performed by him of any official nature, or under color of office, whether performed during or after official business hours.

Section 222. Every fee, commission, percentage, allowance or other compensation authorized by law

or ordinance to be charged, received or collected by any officer or employe for any official service, must be collected in advance, and paid to the treasurer by the officer receiving the same, in the manner herein provided.

Section 223. Every officer or person collecting any fee, commission, percentage, allowance or compensation, for the performance of any official service or duty of any kind or nature, or rendered in any official capacity, or by reason of any official duty or employment, shall deliver to the treasurer each day all such collections received during the preceding day. *Provided*, the sheriff and clerks of courts shall only be required to deliver on the first day of each month, such collections as have been received by them during the preceding month. The treasurer shall thereupon deliver to such officer or person a receipt for the money so paid, as hereinbefore provided. The treasurer shall place all such moneys in a separate fund to be designated the "Unapportioned Fee Fund."

Section 224. The commissioner of supplies shall prepare and deliver from time to time to the treasurer, and to every officer or person authorized by law to charge any fee, commission, percentage, allowance or compensation, for the performance of any official service or duty, as many blank official receipts as may be required, charging such person therewith. Such receipts shall be bound into books containing not less than one hundred, and numbered consecutively, beginning with number one in each class required for each fiscal year, and provided with a corresponding stub. When the books containing receipts are exhausted by the officer receiving them, he shall deliver the stubs thereof to the custody of the auditor.

Section 225. Except as otherwise provided in this charter, every officer and employe who shall receive any money, property or other thing of value on behalf of or belonging to the city and county shall give a receipt therefor, which shall state whether given for

money, property, services or otherwise, the amount and nature thereof, the date of such receipt, and the name of the person to whom given, and shall make a corresponding entry on the stub to which said receipt was attached.

Section 226. On or before the fifth day of each month the treasurer shall make to the auditor a report under oath of all moneys received by him during the preceding month, from what source and for what purpose received. At the same time, the treasurer shall produce the stubs of all official receipts issued by him during the previous month, and all official receipts remaining in his hands unused at the close of business on the last day thereof.

Section 227. On or before the fifth of each month every officer authorized to charge any fee, commission, percentage, allowance or compensation, shall make to the auditor a report under oath, of all official receipts issued by him during the preceding month, showing the amount, to whom and for what purpose issued; and shall at the same time, or oftener if required, exhibit to the auditor or other proper officer, all the treasurer's receipts deposited with him during the preceding month, and all receipts remaining in his hands unused, or not issued, at the close of business on the last day thereof.

Upon receiving these reports the auditor shall examine and settle the accounts of each officer, and apportion such moneys to the fund or funds to which they are appropriated by law, and certify such apportionment to the treasurer, who shall thereupon transfer from the unapportioned fee fund the amount so certified, and credit each fund entitled thereto with the proper amount so apportioned.

Section 228. Every officer who is by law allowed to charge and collect mileage for a service of process or other like service, shall at the end of each month prepare and deliver to the auditor a verified statement showing each process served, the title of the cause, the

name of the deputy or other subordinate officer who made the service, the number of miles actually traveled in making such service, and the day and hour when the same was made, and the amount collected for such service.

Section 229. When any officer legally authorized to employ a person other than one of his deputies or assistants at a stated compensation fixed by law, and such person has rendered the service for which he was employed, such officer and person shall each, at the end of each month, prepare and deliver to the auditor a verified statement showing the service, by and for whom performed, the amount of compensation therefor, and the time actually employed.

Section 230. The monthly salaries of the auditor and his employes shall be audited and allowed by the mayor. All other demands on account of the salaries fixed by law, ordinance, or by this charter, and made payable out of the treasury, shall be allowed by the auditor without any previous approval. Demands payable out of the treasury for salaries, wages or compensation of deputies, clerks, assistants or employes, in any office or department, shall before they can be audited or paid, be first verified, in writing, by the officer, commission, department, or authority under whom, or in which such demand originated. All other demands payable out of any funds in the treasury shall, before they can be allowed by the auditor or paid, be first verified, in writing, by the department, commission or officer in which the same has originated, and in all such cases must be approved by the council, except as otherwise provided in this charter. Every demand against the city and county shall, in addition to the other entries and endorsements upon the same required by this charter, show: (1) The name of the commission, authority or department authorizing the same. (2) The fiscal year within which the indebtedness was incurred. (3) The name of the specific fund out of which the demand is payable. Each demand shall have written or printed upon it a statement that

the same can only be paid out of the income and revenue provided and collected for the fiscal year in which the indebtedness was incurred.

Section 231. Within twenty-four hours after any employe of the city and county shall be discharged or shall cease to be in its employ, the head of the department, office or commission in which such person was employed shall report to the auditor, giving name of employe and date when such employment ceased.

Section 232. Any person chargeable with moneys or other personal property belonging to the city and county, or who has been intrusted with the collection, management or disbursement of any moneys, bonds or interest accruing therefrom belonging to, or held in trust by the city and county, who fails to render an account thereof and make a settlement with the treasurer within the time prescribed by law; or when no particular time is specified, fails to render such account and make such settlement, within ten days after notice from the auditor, then the auditor shall state an account with such person charging twenty-five per centum damages and interest at the rate of ten per centum per annum from the time of such failure, and file a copy thereof with the attorney, and such person, if in the service of the city and county, shall also be subject to removal.

In any suit a copy of such account shall be *prima facie* evidence of the things therein stated. In case the auditor can not, for want of information, state an account, in any action brought that fact may be averred, and it shall be sufficient to allege generally the amount of money, or other property which is due to or which belongs to the city and county. The attorney shall institute all actions arising under this section within ten days after notification by the auditor, and prosecute the same to conclusion.

Section 233. All salaries and compensation of all officers, and all employes of all classes, and others employed at fixed wages, shall be payable monthly.

THE SEVERAL FUNDS.

Section 234. The income and revenue paid into the treasury shall at once be apportioned to and kept in appropriate funds, and such money, including the several funds now in the treasury, shall not be used for any purpose other than that for which the same were raised, provided that surplus and unused money in any fund may during the fiscal year be transferred from one fund to another by ordinance only, except as otherwise provided in this charter.

Section 235. The general funds shall consist of moneys received into the treasury and not specifically apportioned to any other fund.

Section 236. The park fund shall consist of moneys annually apportioned thereto and coming into said fund by donation or otherwise, and shall be kept and used only for the improvement of parks, public grounds, planting and maintaining of ornamental trees, shrubs and flowers in said parks or upon the public boulevards.

The public library fund shall consist of the money apportioned thereto, and all money coming into said fund by gift or otherwise, and shall be kept and used only for public library purposes.

The bonded indebtedness interest fund shall be kept and used only in the payment of interest annually accruing on bonded indebtedness.

The sinking fund shall be kept and used only in the purchase, payment and redemption of the bonded indebtedness of the city and county.

The special deposit fund shall consist of money paid into court and deposited with the treasurer, including all moneys in special deposit. Money in the special deposit fund shall be paid out in the manner prescribed by law or by order of the judge of the court depositing the same.

Section 237. Any demand against the treasurer remaining unpaid at the end of the fiscal year for lack of money applicable to its payment, shall be paid in the order of its registration out of any money which may subsequently come into the proper fund from delinquent taxes or other uncollected income or revenue for such year.

Section 238. When there shall be to the credit of any sinking fund a sum not less than \$20,000, which may be applied to the redemption of any outstanding bonds to which said fund is applicable and which are not redeemable before their maturity, it shall be the duty of the auditor to advertise for ten (10) days in the official newspaper inviting proposals for the surrender and redemption of the bonds, and after such advertisement the money in such sinking fund may be awarded to the person offering to surrender such bonds for the lowest price. Thereupon the treasurer, upon the surrender of the bonds, duly audited by the auditor, shall pay the amount to the person to whom the same was awarded, provided no redemption shall be made for such bonds in a sum greater than the value of the principal and accrued interest.

Should there be no purchase or should a purchase not exhaust such sinking fund, then the balance may be invested by the treasurer in bonds of the city and county maturing at a date prior to those to be redeemed by such sinking fund; *Provided*, he shall not pay for such bonds a sum greater than the amount of the principal and accrued interest.

POLICE DEPARTMENT RELIEF FUND.

Section 239. The council is hereby authorized, and they shall within six months after the adoption of this charter, by ordinance provide for a police department relief fund, to be administered by the board of fire and police, for the following purposes:

For the relief of aged, infirm and disabled members of the police department who have arrived at

the age of sixty years, and who upon examination by two regularly certified practicing physicians, appointed for that purpose, may be ascertained to be, by reason of such age, infirmity or disability, unfit for the performance of their duties; *Provided, however*, that no such member shall be entitled to the benefits in this section above provided unless he has been an active member of the department of the city and county or included municipalities for twenty years preceding his retirement. For the relief of any regular member of the police department, while engaged in the line of his duties who shall suffer physical injuries resulting in total disability which prevents him from supporting himself and family. For the family of any such member of the police department who shall lose his life, leaving a family theretofore dependent on him, without means of support; *Provided, however*, in case of total disability, as in this paragraph provided, upon examination by two regularly certified practicing physicians, appointed for that purpose, they shall certify that such disability unfits such member for the performance of his duties.

Section 240. The relief fund shall be composed of money from the following sources:

1. All proceeds of the sales of unclaimed property.
2. All moneys received from licenses upon dogs.
3. All moneys received from fines for carrying concealed weapons.
4. All moneys received from fines imposed on the members of the police department for violation of law or the rules and regulations of the department.
5. Fifty per cent. of all moneys and receipts from the licensing of automobiles.
6. Fifty per cent. of all rewards and fees and compensation for any extraordinary service of any member of the police department; *Provided*, that not to exceed fifty per cent. of any reward or compensa-

tion for any extraordinary service shall be allowed to the person performing the service for which such reward or compensation is paid.

7. All donations and gifts which may be made to said fund.

The council shall annually appropriate a reasonable sum for said fund.

Section 241. Moneys remaining at the end of any fiscal year in this fund shall not be transferred, but shall be invested from time to time, in approved interest bearing securities. The treasurer shall be the custodian of all money and securities provided for in this section.

FIREMEN'S PENSION FUND.

Section 242. The provisions of chapter 172 of the session laws of the state of Colorado of the year 1903, entitled "An act to create and establish a pension fund for firemen, their widows and dependent children, in cities containing a population of over one hundred thousand inhabitants, and having paid fire departments, and for the maintenance, management and conduct of the same," are hereby made and declared to be in full force and effect in the city and county.

ACCOUNTING.

Section 243. The mayor shall at least once in each year employ an expert accountant who shall examine the books, records and reports of the treasurer and auditor, and the books, records and reports of such other officers and departments as the mayor may direct, and make triplicate reports thereof to the mayor, auditor and attorney. Such accountant shall have unlimited privilege of investigation, to examine under oath or otherwise all officers and employes of the city and county, and every such officer, clerk and employe shall give all required assistance and information to such accountant, and submit to him for

examination such books and papers of his office as may be requested, and failure so to do shall be deemed and held to be a forfeiture and abandonment of his office. The mayor may designate as such expert accountant any responsible corporation engaged in auditing accounts, and the council each year shall appropriate such a sum as may be fixed by the mayor, not, however, exceeding the sum of \$3,000, for the payment of the services of such accountant.

Section 244. The council shall, by ordinance, require a uniform and comparative system of accounting and reporting by the different departments of the city and county.

PUBLIC INDEBTEDNESS.

Section 245. It shall not be lawful for the council or any commission, department or officer, having power to incur liabilities against the treasury, to incur, allow, contract for, pay or render payable, in the present or future, in any one month, any expenditure or demand against any appropriation which, taken with all other expenditures, indebtedness or liability, made or incurred up to the time in such month of making or incurring the same, exceeds one-twelfth part of the amount of the appropriation for the fiscal year, except as otherwise specifically allowed in this charter.

If, at the beginning of any month, any money remains unexpended in any appropriation which might lawfully have been expended during the preceding months, such unexpended sum, except so much thereof as may be required to pay all unpaid claims upon such appropriation, may be carried forward and expended in any month of such fiscal year, but not afterwards, except in payment of claims lawfully incurred during such fiscal year.

Appropriations provided to meet the expenses of elections, for the support and maintenance of the assessor's department, and for the departments of

health, highways, sprinkling, libraries and parks, shall be exempt from the provisions of this section.

Section 246. The council shall not order the payment of money for any purposes whatsoever, nor shall any warrant or other evidence of indebtedness issue in excess of the amount appropriated for the current year, and at the time of said order remaining unexpended in the appropriation of the particular class or department to which such expenditures belong, nor shall any liability or indebtedness incurred in any one fiscal year be a charge upon or paid out of the income or revenue of any other fiscal year.

Section 247. Neither the council nor any officer shall have authority to make any contract or do anything binding on, nor impose upon the city and county any liability to pay money, until a definite amount of money shall have been appropriated for the liquidation of all pecuniary liability of the city and county under such contract, or in consequence thereof. Such contract shall be *ab initio*, null and void as to the city and county for any other or further liability; *Provided*, first, that nothing herein contained shall prevent the council from paying any expense, the necessity of which is caused by any casualty, accident or unforeseen contingency, after the passage of the annual appropriation ordinance; and, second, that the provisions of this section shall not apply to or limit the authority conferred in relation to bonded indebtedness, nor to moneys to be collected by special assessments for local improvements.

ADDITIONAL APPROPRIATIONS.

Section 248. The council shall, immediately after the first election following the adoption of this charter, pass such additional appropriation ordinances as may be necessary to pay the salaries and defray the expenses of any and all officers, employes and departments of the city and county for the year 1904, but not thereafter, and which amounts are not

provided for under appropriation ordinances heretofore passed, and warrants for the payment of such salaries and expenses, after being allowed and audited, as provided in the charter, may be drawn against such appropriation by the auditor, and the amount so required for the payment of said warrants, or so much thereof as may be necessary, shall be included in the appropriation and paid out of the income and revenue for the year 1905, anything in this charter to the contrary notwithstanding.

MEMORIAL DAY.

Section 249. The council shall annually appropriate two hundred dollars for Memorial Day exercises, usually held on May 30th, for the care and preservation of the graves of those buried in the Grand Army cemetery at Riverside.

LIMITATION OF BONDED INDEBTEDNESS.

Section 250. No loan shall be made, and no bonds shall be issued for any purpose, except in pursuance of an ordinance authorizing the same, which ordinance shall be irrevocable until the indebtedness therein provided for, and the bonds issued in pursuance thereof, shall have been fully paid. No loan shall be created, nor bonds issued, unless the question of incurring the same and issuing the bonds therefor shall be submitted to the vote of such of the qualified electors of the city and county, as shall in the year next preceding such election have paid a property tax therein, and a majority of those voting upon the question by ballot shall vote in favor of creating such debt and issuing such bonds.

The city and county shall not become indebted for any purpose or in any manner to an amount, which, including existing indebtedness, shall exceed three per cent. of the assessed valuation of the taxable property within the city and county, as shown by the last preceding assessment for city and county

purposes; *provided, however*, that in determining the limitation of the city and county's power to incur indebtedness there shall not be included bonds issued for the acquisition of water, light or other public utilities, works or ways from which the city and county will derive a revenue.

BONDED INDEBTEDNESS AND REFUNDING.

Section 251. The mayor and council in office at the time this charter shall take effect, by an ordinance duly passed, approved and published in accordance with the provisions of an act of the general assembly of the state of Colorado, entitled "An act to revise and amend the charter of the city of Denver," approved April 3, A. D. 1893, being the former charter of the city of Denver, or wherever the provisions of said act may not be applicable, then in accordance with the provisions of this charter, shall submit, at the first regular election for officers of said city and county, to a vote of such qualified electors thereof as shall in the next preceding year have paid a property tax therein, the question of incurring an indebtedness of said city and county for the purpose of refunding the present bonded indebtedness of the city and county and included municipalities in whole or in part, and funding the valid floating indebtedness thereof, and issuing the bonds of the city and county therefor; and may in like manner submit the question of incurring such indebtedness and issuing such bonds therefor for any or all of the purposes specified in this charter; and the returns of said election upon said questions shall be canvassed and the result thereof ascertained, determined and certified in the same manner as in the case of the election of officers. The maximum amount of the indebtedness to be so incurred, shall be specified in such ordinance. The floating indebtedness herein referred to shall be investigated and audited by the mayor, auditor and treasurer, who shall report the amount of such valid indebtedness to the council.

ARTICLE IX.

PUBLIC UTILITIES.

Section 252. Whenever a petition signed by qualified electors in number not less than twenty-five per cent. of the next preceding vote for mayor, requesting the acquisition of any public utility, work or way, shall be presented to the council, the council shall direct the board of public works to investigate the feasibility of the acquisition of such public utility, work or way, and all costs and expenses which would be incurred by such acquisition, and provide by ordinance for the expense of such investigation and such other expenses as may thereafter be made necessary by any of the provisions hereof.

Section 253. The petition shall describe the proposed public utility, work or way, generally, but with sufficient certainty to enable intelligent action thereon, and may be written and signed on any number of sheets.

Section 254. It shall be the duty of the board of public works to comply with the directions of the council and to commence forthwith to carefully investigate whether and how such public utility, work or way, may be acquired, at what probable cost the same may be acquired, and the board shall prepare whatever preliminary specifications, plans and details may be necessary for that purpose; whether, if acquired, it can be operated by the city and county at a profit or advantage, either in quality or cost of service, and after such investigation shall report to the mayor and council, in writing, its findings in the premises, together with all the facts upon which such findings are based, with sufficient particularity that the mayor and council may judge of the correctness of such findings.

Section 255. If it shall appear from such findings, that such public utility, work or way can be acquired, at what total maximum cost, including all outlays of every nature and kind necessary to complete the same ready for operation, that the same can be operated by the city and county at a profit or advantage in quality or cost of service to the consumers, stating wherein such profit or advantage consists, and that such public utility, work or way can be paid for out of its net earnings, in not to exceed fifty years, the mayor and council shall obtain and consider the legal opinion of the attorney on all matters of law involved in such proposition.

Section 256. The mayor shall thereupon endorse his concurrence or non-concurrence upon the same, and he shall forthwith return the same to the board and the board shall thereupon prepare full specifications, plans and details, if such are necessary, together with a revised estimate of said total maximum cost, and shall prepare and recommend to the council a bill for an ordinance providing for the acquisition of such public utility, work or way, which ordinance shall, among other things, provide the full general description of the proposed public utility, work or way, the said revised total maximum estimated cost thereof, the manner in which such public utility, work or way shall be acquired, whether by purchase, condemnation, construction, or otherwise, and the maximum amount of bonds to be issued and the number of installments and time when such bonds shall mature, and the rate of interest thereon; and shall authorize the acquisition of such public utility, work or way, in the manner so stated and at not to exceed such total maximum estimated cost therein stated, and not otherwise.

Section 257. Upon the passage of such ordinance the question of whether or not such bonds shall issue, shall be submitted to the tax-paying electors who shall have paid taxes in the calendar year next preceding,

and if a majority of such tax-paying electors voting thereon vote in favor of the issuance of such bonds, such public utility, work or way, shall be acquired under and pursuant to such ordinance, and such bonds shall be issued and such bonds or the proceeds thereof used in payment therefor to the extent necessary; such question shall be submitted at the next general election occurring not earlier than ninety days after the passage of such ordinance, unless the council shall vote in favor of submitting such question at a special election, when it shall be submitted at a special election not earlier than ninety days after the passage of such ordinance. More than one such question may be separately submitted at the same election.

Section 258. The cost of acquiring any public utility, work or way, shall be paid by bonds of the city and county to be issued as provided by ordinance, but said ordinance shall also provide for a sinking fund for the payment of interest and redemption of bonds as they mature; *Provided*, that the primary liability to pay the interest and principal of said bonds shall remain on the city and county, notwithstanding such sinking fund.

Section 259. All bonds issued under the provisions of this article shall mature in equal five-yearly installments, the first installment to mature not earlier than five years and the last installment not later than fifty years from the date of original issue, with interest at not to exceed four per centum per annum, and the principal and interest may be made payable in the city and county and elsewhere, as may be provided in the ordinance providing for the acquisition of such public utility, work or way; said bonds may be used in whole or in part, or may be sold in whole or in part and the proceeds thereof used, as far as required, in the payment for such public utility, work or way, but no such bonds shall be used or sold at less than par, with accrued interest, nor sold except after advertisement, as in this char-

ter provided, for the sale of public improvement bonds, and such bonds and the interest thereon shall be paid by the treasurer, without a warrant from the auditor.

Section 260. The treasurer shall open a separate account for each public utility, work or way so acquired and enter therein all receipts and disbursements on account thereof, and all moneys so received shall be paid to the treasurer, and paid out by him only upon the warrant of the board, audited by the auditor, except as otherwise herein provided.

Section 261. All surplus receipts from any public utility, work or way so acquired, over and above operating expenses, shall be paid into a sinking fund to be kept by the treasurer on account of such public utility, work or way, and all bonds and coupons shall be paid out of such sinking fund. Whenever there shall be a surplus in the sinking fund in excess of the next installment of maturing bonds and interest on all outstanding bonds to the next interest payment, such surplus may be invested in bonds of the city and county at not above their market value, nor above par with accrued interest, or it may be used in redeeming outstanding bonds maturing at any future period, at not more than their market value, nor more than their par value with accrued interest. As soon as all the outstanding bonds, with interest, shall have been so paid out of the sinking fund, or there shall be sufficient money in such sinking fund to pay the same, principal and interest, the balance remaining in the sinking fund and all net earnings thereafter shall be paid into the general fund, unless some or all thereof shall be needed for improvements or betterments, in which event the council may appropriate the same as may be required.

Section 262. All rights of way and easements which shall be necessary in or about the acquisition of such public utility, work or way, shall be acquired in the manner provided for the acquisition of such

rights of way and easements in the case of public improvements, and all condemnation proceedings shall be as provided by law.

Section 263. The council shall fix the rates for the service to be rendered by each such public utility, work or way, but, until such public utility, work or way shall have been fully paid, or its payment provided for, by said sinking fund, as aforesaid, such rates shall never be less than sufficient, annually, to pay all cost of maintenance and operation, plus accruing interest on all outstanding bonds, and plus such pro rata amount of the principal of the total issue of bonds as shall be necessary to produce the principal of each installment of bonds as such installments mature, and if during any one year the rates charged shall prove insufficient for such purpose, they shall be increased for the next succeeding year sufficiently to pay such deficiency; and after all of said bonds and interest shall have been fully paid, the rates shall never be less than sufficient to pay for all expenses of maintaining and operating such public utility, work or way.

Section 264. The board of public works shall have full charge and control of all public utilities, works and ways which may be acquired and shall perform all duties in any way connected with the maintenance, improvement and operation of the same.

ARTICLE X.

FRANCHISES.

Section 265. No franchise relating to any street, alley or public place of the city and county shall be granted except upon the vote of the qualified tax-paying electors, and the question of its being granted shall be submitted to such vote upon deposit with the treasurer of the expense (to be determined by the treasurer) of such submission by the applicant for said franchise.

Section 266. All franchises or privileges hereafter granted to corporations or individuals shall be limited to twenty years from the granting of the same, and such franchises or privileges so granted shall plainly specify on what particular streets, alleys or avenues the same shall apply; and no franchises or privileges shall hereafter be granted by the city and county in general terms or to apply to the city and county generally.

Section 267. No ordinance submitting any franchise shall be put on its final passage, in either board, within thirty days of its introduction or initiation, nor until the bill therefor has been published not less than five consecutive times in some daily newspaper published in the city and county. No exclusive franchise shall be granted.

Section 268. All power to regulate the charges for service by public utility corporations, is hereby reserved to the people, to be exercised by them in the manner herein provided for initiating an ordinance.

Section 269. The council may grant a license or permit at any time, in or to any street, alley or public place, provided such license or permit shall be revocable at any time, and such right to revoke shall be expressly reserved in every license or permit which may be granted hereunder.

ARTICLE XI.

PUBLIC IMPROVEMENTS.

Section² 270. The city and county shall have power to contract for and make local improvements, and to assess the cost thereof wholly or in part upon the property especially benefited, as hereinafter provided. All contracts for public improvements shall be awarded by the mayor, upon the recommendation of the board of public works (hereinafter designated the "board"), and the improvements shall be constructed by and under the direction of the board, in

accordance with specifications prescribed by the board.

In all cases when the cost of local improvements is to be assessed wholly or in part upon the property benefited, the same shall be constructed by independent contract or contracts; but other public improvements may be constructed by day labor under the direction of the board.

Section 271. Whenever the board shall by resolution order any of the local improvements herein mentioned, the same shall be authorized by ordinance, which ordinance shall be in the form recommended by the board, by endorsement thereon, and shall not be subject to amendment by the council.

Section 272. The board may, in districts to be prescribed by the board, order the paving (the term "paving" wherever used in this charter shall include macadamizing), grading, curbing, guttering, surfacing with an average thickness of three inches of suitable material, and the construction and re-construction of sidewalks upon, and otherwise improving of, the whole or any part or parts of any street or streets, alley or alleys, or streets and alleys, in the city and county, or any combination of the said improvements, including the necessary grades, cross-walks, culverts, drains, readjusting man-holes and catch-basins, and such other incidentals, including incidental storm sewers in the case of paving, as the board may prescribe; and the board may thereafter, under the conditions herein prescribed, do such further grading as may be necessary in paving or otherwise improving the same area; *Provided*:

First: Before ordering the improvements mentioned in this section, or any of them, the board shall adopt full details and specifications for the same, permitting and encouraging competition, determine the number of installments and time in which the cost shall be payable, the rate of interest on unpaid installments, and the district of lands to be assessed for the

same, as in this article provided; and shall cause the engineer to make an estimate of the total cost of such improvements, exclusive of the per centum for cost of collection and other incidentals, and of interest to the time the first installment comes due, and a map of the district to be assessed, from which map the approximate share of said total cost that will be assessed upon each piece of real estate in the district may be readily ascertained; and no contract shall be let for any amount exceeding the total estimate of the engineer.

Second: The board shall by advertisement for ten consecutive days, exclusive of Sundays and other legal holidays, in two daily newspapers of general circulation, published in the city and county, give notice to the owners of the real estate in the district and to all persons interested, generally, and without naming such owners or persons, of the kinds of improvement proposed (without mentioning minor details or incidentals), the number of installments and time in which the cost of the improvements will be payable, the rate of interest on unpaid installments, the extent of the district to be assessed (by boundaries or other brief description), the probable cost as shown by the total estimate of the engineer, the maximum share of said total estimate per front foot, where the assessment is made per front foot, or per square foot or ordinary lot of twenty-five by one hundred and twenty-five feet, where the assessment is made according to area, that will be assessed upon any lot or lands in the district (and in case the assessment shall be made otherwise than per front foot or square foot, the said maximum share to be assessed upon any lot or lands in the district or to any persons shall be stated according to the method of assessment adopted in the district), and the time, not less than sixty (60) days after the first publication when the board will consider the ordering of the proposed improvements and hear all complaints and objections that may be made

in writing concerning the proposed improvements, by the owner of any real estate to be assessed, or any persons interested, that said map and estimate and all proceedings of the board in the premises are on file and can be seen and examined at the office of the board during business hours, at any time within said period of sixty (60) days, by any person interested.

Third: If the owners of one-third of the frontage of the real estate to be assessed shall petition for paving, and name the kind of paving, whether asphalt, macadam, stone, brick or any other kind of substantial paving, then the improvements shall be ordered; *Provided*, the board shall deem such proposed improvement good and sufficient for the particular locality, and the kind of pavement so named shall be used, except that no petition or specifications shall name any material from any specified locality, quarry or kiln or of any particular name, make, brand or source. The petition must be subscribed and acknowledged in the manner provided by law for acknowledgments of deeds of conveyance of real estate, by the owners or their agents duly thereunto authorized by power of attorney acknowledged in like manner, of one-third of the frontage of the real estate to be assessed for the same. No petitioner, his heirs or assigns, shall be permitted to withdraw his name from the petition after the same has been filed with the board, unless the board fails to order such improvements, upon such petition, within nine months from the time the petition is so filed. All requests for withdrawal must be subscribed and acknowledged as aforesaid.

Every petition shall state the maximum cost per front foot, exclusive of interest and cost of collection, for the entire improvement when completed, and the amount so named shall not be exceeded. All matters contained in the petition, except the naming of the kind of pavement, as aforesaid, and of the maximum cost, as aforesaid, may be disregarded by the board, and any one or more of the other improvements

mentioned in this section may be added by the board, if the maximum cost is not exceeded.

Where the paving petitioned for in any number of petitions is substantially the same, the improvement may be included in one district, but in such case each petition shall be considered as a unit for the purpose of petition and remonstrance, and may be considered as a unit for any other purposes, as the board may direct.

But no petition shall be required to authorize the board to order any paving mentioned in this section; *Provided*, that no paving, alone or in combination with other improvements, unless a petition therefor has been filed as aforesaid, shall be ordered if the amount to be assessed therefor, upon any piece of real estate, shall exceed one-half its valuation for assessment for general taxes for the year preceding the proposed order; *Provided*, that if, owing to peculiar conditions, only exceptional pieces of real estate will be so affected, the city and county may assume and pay such excess, or the improvement of such pieces of real estate may be excepted from the district and the improvement ordered. And, *Provided*, further, that except on petition, no paving district shall include more than twelve (12) blocks of street, with intersections.

Fourth. If within the time specified in said notice a remonstrance against the making of all the improvements proposed shall be filed with the board, subscribed and acknowledged as above provided for petitions, by the owners of not less than thirty-five per centum of the frontage of the real estate to be assessed for paving alone, or for paving in combination with other improvements, or by the owners of a majority of the frontage of the real estate to be assessed for any other improvement or combination of improvements, without paving, the improvements shall not be made; *Provided*, that the construction of sewers shall not be subject to remonstrance.

No owner, his heirs or assigns, who shall have signed and not withdrawn from a paving petition before the same is filed with the board, shall be permitted to sign a remonstrance against the paving proposed.

Fifth. In all specifications for material to be used in public improvements of every kind the board shall establish a standard of purity, strength and quality, to be demonstrated by physical and chemical tests within limits of reasonable variations, such as rattler, crushing, absorption, chemical and other tests, and in every instance the material shall be described in the specifications either by standard or quality, as will admit of genuine competition between contractors, so that there can be at least two or more bids by individuals or companies in no manner connected with each other, and no material shall be specified which shall not be subject to such competition.

Sixth. All the proceedings by the board may be modified, confirmed or rescinded by the board at any time prior to the passage of the ordinance authorizing the improvements; *Provided*, that no substantial change in the district, map, details, specifications or estimate shall be made by the board after the first publication of the notice to property owners.

Seventh. In all cases of paving, the specifications and contract shall provide that bidders shall guarantee that the paving shall remain in good order and repair for a period of five years, and to make all necessary repairs during such period without further compensation; *Provided*, that in case of macadamizing, the guaranty shall, after two years, extend only to the maintaining of a perfect grade, surface and foundation, and not to any diminution of the thickness of the original pavement by wear and tear; in case of cement concrete curb, gutter or sidewalk, the specifications and contract shall provide for a guaranty of two years; and the board may provide

for a guaranty for a reasonable time, not to exceed two years, of all other work.

Eighth. If at the time of the passage of the ordinance authorizing the improvements for any district, any piece of real estate in the district has the whole or any part of the proposed improvements, conforming or approximately conforming to the general plan, the board may adopt the same, in whole or in part, or make the necessary changes to make the same conform to the general plan, and the owner of such real estate shall, when the assessment is made, be credited with the amount which is saved by reason of adopting or adapting such existing improvements.

Ninth. The finding of the council by ordinance, that any improvements provided for in this article were duly ordered after notice duly given, or that a petition or remonstrance was, or was not filed, or was or was not duly subscribed and acknowledged by the required number of owners, as in this article provided, shall be conclusive in every court or other tribunal.

Section 273. In case of the improvement of any street as hereinabove provided, except as otherwise provided in this article, the cost of the improvements, except in the intersection of the streets and alleys, and except the share to be paid by street or other railway companies, shall be assessed upon all the lots and lands abutting on the streets improved, in proportion as the frontage of each lot or tract of land is to the frontage of all the lots and lands so improved, the sides of corner lots, which sides abut on the streets so improved, being regarded as frontage; *Provided*, that where the lots or lands abutting on the street improved are not of substantially equal depth, or where any of such lots or lands are less than one hundred and fifty feet in depth, then if the board so determine, the real estate abutting on the street improved may be assessed to a substantially equal depth, not less than twenty and not more than one

hundred and fifty feet from the street improved, without regard to lot or land lines, as the board may determine; and in all such cases the board may divide the depth of the real estate so to be assessed into from two to six zones, parallel with the street improved, and apportion the amount to be paid for the entire depth to the different zones, in proportion to the benefits received by each zone, and wherever a lot or land line lies within such zone, the board may determine the proportion to be paid upon the real estate lying on each side of such line within the zone; *Provided*, that in improvement districts for the combined grading, curbing, guttering and surfacing (and any other improvements mentioned in section 272 hereof, which may be included) of any street which constitutes or is suitable for a general thoroughfare or boulevard, the whole or any part of the cost of either grading or surfacing, or both, may be paid for by the city and county out of the general revenue, as may be provided by ordinance, and the remainder of the total cost of such combined improvements shall be assessed and paid for as in other cases of grading, curbing, guttering and surfacing.

Section 274. In case of the improvement of any street, except as otherwise provided herein, the cost of the improvements in each street intersection, except the share to be paid by street or other railway companies, shall be assessed upon all the frontage on the street improved, and on the intersecting streets within a distance of one-half block in each direction from such intersection, in proportion to the frontage of each piece of real estate on the street improved or on any intersecting street, or on both, within said distance; and the cost of each alley intersection shall be assessed upon all the real estate in the same block in proportion to the frontage on the street improved.

Section 275. The paving of any alley or alleys connecting with any paved street, when ordered by

the board, shall not be the subject of remonstrance, but owners of the frontage to be assessed shall have the right to present objections to such paving, as herein provided.

Section 276. When any real estate is "V" shaped or of any irregular form, the council may, upon the recommendation of the board, make such allowance in the assessment thereon as to them may seem equitable and just, or may refuse to make any allowance; and in case of any unusual area or proportion of intersections the board may order not to exceed one-half of the cost of such intersections to be paid by the city and county, and the remainder only shall in such case be assessed.

Section 277. The term "street," as used in this article, shall include avenues, boulevards and other highways; the term "real estate" shall be held to mean all lands, whether platted or unplatted, regardless of lot or land lines. Lots, plots, blocks and other subdivisions may be designated in accordance with any recorded plat thereof, and unplatted lands by any definite description.

SIDEWALKS.

Section 278. In districts for the construction and reconstruction of sidewalks alone, or in combination with other improvements, the work shall include the necessary grading from curb line to lot line. The owners shall have the right to construct or reconstruct their own walks, in conformity with the plans and specifications for the district, within thirty days from the publication of the ordinance creating the district, upon the deposit with the treasurer of the city and county of the approximate pro rata share of the total cost of the district, excepting construction, reconstruction and grading, to be fixed by the board, and when such cost is definitely ascertained the excess deposited shall be returned. And whenever sidewalks are ordered, in combination with improvements other than grading sidewalk areas, a separate

contract shall be let for the construction and reconstruction of the sidewalks, exclusive of the necessary grading.

Section 279. The whole cost of construction and reconstruction, including intersections and necessary grading and removal of obstructions, shall be assessed upon the lots or lands in front of which such improvements are made, as follows: The grading, removal of obstructions, intersections and all other general expenses, including cost of collection and interest, pro rata per front foot; new walks pro rata per front foot where constructed; and reconstructed walks upon each lot or piece of land where reconstructed according to the cost of reconstruction.

Section 280. The board may order the construction or reconstruction of sidewalks otherwise than in districts, whenever in the opinion of the board it shall be proper, because sufficient sidewalks have been laid in the vicinity, to make it reasonable that intervening sidewalk areas should be provided with sidewalks, or existing sidewalks should be reconstructed; in all such cases the board shall notify the owner or his agent to construct or reconstruct such walks within thirty days from the date of the service of such notice. Said notice shall be in writing and served in person upon the owner, if found within the city and county, and if not, it may be served by registered United States mail or by publication for ten days in some daily newspaper published in the city and county. Whenever the owner shall be in default the board may have the required work done by day labor or contract, and when done, issue to the person doing the work its certificate therefor, stating the just amount due him, which certificate shall draw interest at the rate of one per centum per month until paid, and when recorded in the office of the recorder, shall be a lien upon the property in front of which the work was done, and said amount may be recovered by the holder of the certificate against the owner

in any court of law, and said lien may be foreclosed by the holder of such certificate, if not paid within thirty days from its date.

The council may, by ordinance, provide any further means for compelling the owners of such property to do the work in this section mentioned and referred to.

Section 281. All sidewalks ordered by the board shall be laid to the official grade, unless the owners of at least three-fourths of the frontage on any side of one block request that the sidewalks on such frontage be laid otherwise than to official grade, and the board shall deem such request reasonable.

SEWERS.

Section 282. The city and county may establish and maintain separate or combined sewer systems, which systems shall be divided into district and sub-district sewers for storm drainage, sanitary drainage, or both.

Section 283. Said sewers shall be established and constructed at such time, in such locations, or such extent, dimensions and materials, and in accordance with such full details and specifications as may be prescribed by the board. Wherever necessary, rights of way for any sewers authorized by this article may, upon the order of the board, be purchased or condemned on behalf of the district, and the cost charged to such district.

Section 284. The board may order the construction of district sewers and appurtenances for sanitary drainage for districts to be known as sanitary sewer districts; the construction of district sewers and appurtenances for storm drainage for districts to be known as storm sewer districts; the construction of district sewers and appurtenances for storm and sanitary drainage for districts to be known as combined sewer districts; the construction of intercepting sew-

ers and appurtenances for storm drainage, sanitary drainage or both, for districts to be known as intercepting sewer districts, and the construction of district sewers and appurtenances for sanitary drainage for districts to be known as special sanitary sewer districts, the same to be approved by ordinance passed by a two-thirds vote of the council. Such sewers shall be constructed so as to connect, within or without the district, with some other or sufficient sewer or with some natural drainage. Such districts, except special sanitary sewer districts, may be composed of subdistricts, to be specifically named or numbered in said ordinance. District sewers, except as hereinafter provided, shall include all submains necessary to provide outlets for all subdistrict laterals within the district. Special district sewers shall include the necessary mains to provide outlets for all laterals within the special sewer district.

Section 285. The board may, at the time of ordering the construction of district sewers, or at any time or times thereafter, order the construction of subdistrict laterals in any of such subdistricts, so as to connect the same with the submains or with the district sewer, the same to be approved by ordinance as in the case of district sewers.

Section 286. The cost of district sewers shall be assessed upon all the real estate in the district, in proportion as the area of each piece of real estate in the district is to the area of all of the real estate in the district, exclusive of public highways, and the cost of subdistrict laterals shall be assessed in like manner upon all the real estate in the subdistrict; *Provided*, that the construction of any submain may be omitted until such time as it may be required, in which case subdistricts so left without submains shall not be assessed for any part of the costs of submains constructed along with and as a part of the district sewer. Whenever submains so omitted are required, their construction may be ordered as in this article

provided for other sewers, and their cost shall be assessed to the subdistricts which are thus supplied with submains.

Section 287. Temporary connections may be made with any sewer from property lying without districts, with the consent of the board and upon such terms as the board may require.

Section 288. Private sewers connecting with district sewers may be constructed under such restrictions and subject to such regulations as may be prescribed by the board, but no expense shall be incurred by the city and county in constructing or maintaining them; and the city and county shall have power by ordinance to compel the owners of any premises in any sewer district or subdistrict to connect the same with the district or subdistrict sewer at their own expense.

Section 289. In ordering the construction of sewers, the board shall proceed as required in the first, second and sixth provisos of section 272 hereof, but the construction of such sewers shall not be subject to petition or remonstrance.

Section 290. The city and county may extend and maintain any existing public sewer or any district sewer main hereafter constructed, from its outlet to any point within or without the city and county. Such sewer extensions shall be established and constructed at such times, in locations within or without the city and county, of such extent, dimensions and material, and in accordance with such full details and specifications as may be prescribed by the board. Necessary rights of way may, upon the order of the board, be purchased or condemned on behalf of the city and county, and the whole cost thereof, sewer and rights of way, shall be paid by the city and county.

Section 291. No lots in any sewer district shall be connected with the district sewer unless, before completion the estimated cost, or, after completion, the assessment has been paid.

Section 292. If in any sewer district any assessments upon the lots therein for the construction of a sewer therein has in any court of competent jurisdiction been held illegal, the owner of any lot in such district shall only be permitted to connect with or use such sewer upon payment into the treasury for the use of the holders of the warrants or bonds issued for the construction of such sewer, or if such warrants have been taken up, then into the general fund of the city and county, such amount as may be fixed by ordinance.

VIADUCTS AND TUNNELS.

Section 293. The board may order the construction of viaducts and tunnels in such locations, of such character and material, including paving and suitable approaches, and in accordance with such specifications, as may be prescribed by the board; and unless otherwise ordered by the board and the council, the entire cost thereof shall be assessed upon the districts benefited thereby, as hereinafter provided.

Such districts may be created by ordinance upon the recommendation of the board, as provided in section 271 hereof; and may include or except the real estate, or any part thereof, lying between the termini or between lines intersecting the termini of such improvements, and any real estate so excepted shall be designated on the map as "excepted" from said district; *Provided*, that if approaches approved by the board are constructed between such termini, no real estate between the termini accessible from such approaches shall be excepted; or if being excepted, such approaches are afterwards constructed, then the whole cost of the approaches shall, in like manner and upon like notice be assessed upon the real estate so excepted, together with such additional amounts as may be apportioned by ordinance, upon recommendation of the board, as the share of the cost of the principal structure to be borne by the territory so excepted, the same to be credited to the remainder

of the district after hearings, as the same may be provided for by ordinance. The term "tunnels," as used in this charter, shall be held to include open cuts.

Section 294. The proceedings shall be as required in the first, second and sixth provisos of section 272 hereof; and if, within the time specified in the advertisement of the board, a remonstrance shall be filed with the board, subscribed and acknowledged as provided in the third proviso of section 272 hereof, by the owners of thirty-five per cent. in area of the real estate which is to be assessed for the improvements, then the improvements shall not be made, and the proceedings shall not be renewed for six months thereafter.

No viaduct or tunnel constructed in pursuance of this article shall be occupied by any tracks of any kind, or used by cars or other vehicles of any kind propelled upon tracks or trams, by steam, electricity, cable or other power, or for the support of any poles, wires, pipes or other conduits of any kind, except only such as may be necessary for the maintenance of such viaduct or tunnel, or used as a means of immediate approach to any saloon or other place where intoxicating or malt liquors are sold or given away, except upon a petition of the owners of a majority in area of the real estate which is or is to be assessed for the improvements, unless in the resolution of the board ordering the improvements and in the ordinance authorizing the same, provision shall be made for such occupation or use; but no such provision shall be made, and no right shall be given to occupy or use such viaduct or tunnel for any such purpose, except for a reasonable consideration, to be specified by the board and the council, and to be paid into the treasury of the city and county to the credit of such district, or otherwise assured to the satisfaction of the board, at or before the time of executing the contract for said improvements; and in such case the balance only of the cost of said improvements shall be assessed

upon the district benefited, as provided in this article. Failure within the time above specified to pay for such privilege, or so assure said consideration, shall operate as a waiver of such privilege.

Section 295. In the construction of viaducts and tunnels separate bids shall be advertised for and separate contracts let for different parts of the improvement. For the purpose of constructing viaducts and tunnels the city and county may, upon the order of the board, exercise the right of eminent domain and condemn, take or damage any private property necessarily condemned, taken or damaged in the making of said improvements; and may at its option, take such parts only of the property as may be necessary for the foundations and support of the improvement, and such rights of way over, or under, and such easements in, such property as may be necessary for the construction, maintenance, repairs and perpetual use of such improvements.

Section 296. The entire cost of the construction and completion of such viaducts and tunnels, including approaches, engineering, clerical expenses, costs of inspection, interest and collection, together with the costs of any necessary rights of way and of any lands so taken or damaged, less any amounts paid for the privileges above mentioned, and less any amounts agreed to be paid by the city and county, shall be assessed upon all the real estate in the district, benefited, exclusive of public parks, highways and natural water courses, and upon all steam railway companies whose tracks are crossed by the improvement, in proportion to the benefits to each piece of real estate or to such companies, accruing by reason of the improvement, and in accordance with such rules of apportionment as may be recommended by the board and approved by the council.

The assessments to any such company shall be a lien upon the rights of way so crossed, and upon all other real estate of such companies, respectively,

used in connection with such rights of way in the city and county, to the same extent and with the same effect, as in the case of assessments on the other real estate in the district, and shall be enforced in like manner.

Section 297. The provisions of this article shall not affect the power of the council to require railroad companies to construct viaducts, bridges and tunnels, or parts of viaducts, bridges and tunnels and their approaches over, along or under their tracks at their own expense, and the council is hereby empowered, by ordinance, to require railroad companies to construct, at their own expense, such bridges and their approaches, tunnels or other conveniences at public crossings, and such viaducts and their approaches over their tracks where the same cross or extend along public highways or streets. Whenever the board of public works shall deem any such improvement necessary, the board shall recommend a bill for an ordinance requiring the construction of such improvement, the character and location of such proposed improvement to be therein described with sufficient certainty and the estimated cost thereof to be stated; and where a viaduct or tunnel crosses or passes under the tracks of several railroad companies, the board of public works shall have the power to apportion the cost thereof equitably among the different companies owning the said tracks; *Provided*, that no viaduct, bridge or tunnel shall be constructed under this section, unless the council shall have provided for the vacation of the street upon the completion of said viaduct, bridge or tunnel throughout that portion thereof, over, along or under which said public improvement is proposed to be constructed, the fee of the street to remain, nevertheless, in the city and county. The provisions of this section shall not be construed to repeal, modify or affect any ordinance now existing or in force heretofore passed by the city council of the city of Denver, requiring railroad com-

panies to construct a viaduct or viaducts across or over their tracks, and no such ordinance shall be repealed until the provisions thereof have been fully complied with, and all suits and proceedings thereunder shall be conducted to final judgment, and enforced under the law and the ordinances of the city of Denver as they existed prior to the adoption of this charter.

ASSESSMENT AND PAYMENT.

Section 298. Upon completion of any local improvement, or, in the case of sewers, upon completion from time to time of any part or parts thereof affording complete drainage for any part or parts of the district, and upon acceptance thereof by the board, or whenever the total cost of any such improvement, or of any such part or parts of any sewer, can be definitely ascertained, the board shall prepare a statement, showing the whole cost of the improvement, or such parts thereof, including not to exceed six per cent. additional for costs of collection and other incidentals, and including interest to the next succeeding date upon which general taxes, or the first installment thereof, are by the laws of this state made payable; and apportioning the same upon each lot or tract of land to be assessed for the same, as in this article provided; and shall cause the same to be certified by the president and filed in the office of the clerk.

Section 299. The clerk shall thereupon, by advertisement for ten days in some newspaper of general circulation, published in the city and county, notify the owners of the real estate to be assessed, and all persons interested, generally and without naming such owners or persons, that said improvements have been or are about to be completed and accepted, specifying the whole cost of the improvements and the share so apportioned to each lot or tract of land or persons; and that any complaints or objections that may be made in writing by such owners or persons

to the board of supervisors and filed with the clerk within sixty (60) days from the first publication of such notice, will be heard and determined by the board of supervisors at its first regular meeting after said sixty (60) days and before the passage of any ordinance assessing the cost of said improvements.

Section 300. At the meeting specified in said notice, or any adjournment thereof, the board of supervisors, sitting as a board of equalization, shall hear and determine all such complaints and objections, and may recommend to the board of public works any modification of their apportionments; the board of public works may thereupon make such modifications and changes as to them may seem equitable and just, or may confirm the first apportionment and shall notify the council of their final decision; and the council shall thereupon, by ordinance, assess the cost of said improvements against all the real estate in said district and against such persons, respectively, in the proportions above mentioned.

Section 301. All assessments made in pursuance of this article shall be a lien in the several amounts assessed against each lot or tract of land, from the publication of the assessing ordinance, and shall have priority over all other liens except general taxes. As to any subdivisions of any real estate assessed in pursuance of this article, the assessments shall in each case be a lien upon all the subdivisions in proportion to their respective areas. No delays, mistakes, errors, defects, or irregularities in any act or proceeding authorized by this article, shall prejudice or invalidate any final assessment, but the same shall be remedied by subsequent or amended acts or proceedings as the case may require, and when so remedied the same shall take effect as of the date of the original act or proceeding.

If in any court of competent jurisdiction any final assessment made in pursuance of this article is set aside for irregularity in the proceedings, then the council may, upon recommendation and notice as re-

quired in the making of an original assessment, make a new assessment in accordance with the provisions of this article.

Section 302. The auditor shall, from said statement and assessing ordinance, prepare a local assessment roll, in book form, showing in suitable columns each piece of real estate assessed, the total amount of the assessment, the amounts of each installment of principal and interest, if in pursuance of this article the same is payable in installments, and the date when such installment will become due, with suitable columns for use in case of payment of the whole amount, or of any installment or penalty, and deliver the same to the treasurer for collection, and the same shall be certified by the clerk under the seal of the city and county, with his warrant for the collection of the same, and the auditor charging the amount of the assessment roll to the treasurer, and the treasurer receipting to the auditor for the same.

The assessor shall provide in the assessment roll of general taxes a column wherein the treasurer may make memoranda of special assessments. The treasurer shall make suitable memoranda in such column, showing any unpaid special assessments levied before the receipt of the assessment roll, upon the property referred to in such memoranda. On request for the amount of the taxes against any property the treasurer shall include in his statement special assessments. No error, failure, neglect or default on the part of the assessor or treasurer in complying with the provisions of this section shall invalidate any tax or assessment or affect the lien thereof.

Section 303. All assessments made in pursuance of this article shall be due and payable within thirty days of the publication of the assessing ordinance, without demand; *Provided*, that all such assessments may at the election of the owners, be paid in installments with interest as hereinafter provided. Failure to pay the whole assessment within said period of

thirty days shall be conclusively considered and held an election on the part of all persons interested, whether under disability or otherwise, to pay in such installments. All persons so electing to pay in installments shall be conclusively considered and held as consenting to said improvements, and such election shall be conclusively held and considered as a waiver of any and all right to question the power or jurisdiction of the city and county to construct the improvements, the quality of the work, the regularity or sufficiency of the proceedings, or the validity or correctness of the assessment.

Section 304. In case of such election to pay in installments, the assessments, except for paving alone or in combination with other improvements, and for viaducts and tunnels, shall be payable in not less than two nor more than ten equal annual installments of principal; the assessments for paving, alone or in combination with other improvements, shall be payable in ten equal annual installments of principal; and assessments for viaducts, tunnels, parks and park-ways, shall be payable in not less than five nor more than ten equal annual installments of principal, the first of which last mentioned installments shall be payable in not less than five and the last in not more than twenty years; with interest in all cases on the unpaid principal, payable annually at a rate not exceeding six per centum per annum; as the number of installments, the period of payment and the rate of interest may be determined by the board, or in case of parks or park-ways, by the park commission.

Section 305. Subject to the foregoing requirements, all installments, both of principal and interest, except in case of parks and park-ways, shall be payable at such times as may be determined in and by the assessing ordinance, upon the recommendation of the board, and in case of parks and park-ways, of the park commission.

Section 306. Failure to pay any installment, whether of principal or interest, when due, shall cause the whole of the unpaid principal to become due and payable immediately, and the whole amount of the unpaid principal and accrued interest shall thereafter draw interest at the rate of one per cent. per month or fraction of a month until the day of sale, as hereinafter provided; but at any time prior to the day of sale the owner may pay the amount of all delinquent installments, with interest at one per cent. per month or fraction of a month, as aforesaid, and all penalties accrued, and shall thereupon be restored to the right thereafter to pay in installments in the same manner as if default had not been suffered. The owner of any piece of real estate not in default as to any installment or payment, may at any time pay the whole unpaid principal with the interest accrued.

Section 307. Payments may be made to the treasurer at any time within thirty days of the publication of the assessing ordinance, and an allowance of the per centum added for cost of collection and other incidentals, and of the interest from the date of payment to the time the first installment comes due, shall be made on all payments made during said period of thirty days.

Section 308. The treasurer shall receive payment of all assessments against any real estate appearing upon said last mentioned roll, with interest, and in case of default in the payment of any installment of principal or interest, when due, shall advertise and sell any and all real estate concerning which such default is suffered, for the payment of the whole of the unpaid assessments thereon; and said sales and advertisements shall be made at the same time or times, in the same manner, under all the same conditions and penalties, and with the same effect as are provided by general law for the sales of real estate in default of payment of general taxes.

Section 309. At any sale by the treasurer of any real estate in the city and county, for the purpose of

paying any special assessments for local improvements, the treasurer having written authority from the mayor, may purchase any such real estate without paying for the same in cash, and shall receive certificates of purchase in the name of the city and county, such certificates shall be received and credited at their face value, with all interest and penalties accrued, to the treasurer on account of the assessments in pursuance of which the sale was made. Said certificates may thereafter be sold by the treasurer at their face value, with all interest and penalties accrued, and by him assigned in the name of the city and county, and the proceeds credited to the fund created by ordinance for the payment of such assessments respectively, such assessments shall be made without recourse upon the city and county in any event, and the sale, and the assignment, shall operate as a lien in favor of the city and county and of the holders of such certificates, as is provided by law in the case of sales of real estate for default in payment of general taxes.

Section 310. The owner of any divided or undivided interest may pay his share of any assessment.

Section 311. All collections made by the treasurer upon any such assessment roll, in any calendar month, shall be accounted for to the auditor on or before the tenth day of the next succeeding calendar month, with separate statements of all such collections for each improvement.

BONDS.

Section 312. All local improvements shall be paid for in public improvement bonds of the city and county, of such date and in such form, as may be prescribed by the board, the same bearing the name of the district improved, and payable to bearer in a sufficient period of years to cover the period of payments herein provided for, but subject to call as hereinafter provided, in convenient denominations of not more than one thousand dollars each. All such bonds shall

be issued by the treasurer upon estimates and orders of the board, approved by the mayor, without being audited by the auditor or auditing committee or allowed by the council; and the treasurer shall preserve a record of the same in a suitable book kept for that purpose; said bonds shall be subscribed by the mayor, attested by the clerk and seal of the city and county, and registered by the auditor, with the approval of the president of the board endorsed thereon; the same to be payable only out of the moneys collected on account of the assessments made for said improvements, respectively; and all moneys collected on account of the assessments for any improvement shall be applied to the payment of the bonds issued for the same improvement only, until the payment of all the said bonds; *Provided*, that sufficient of said bonds may be used by the board, with the approval of the mayor, at par, to pay for the engineering and other clerical service, advertising, cost of inspection, and accrued interest on outstanding bonds, and in case of viaducts and tunnels, in also paying for any necessary lands taken or damaged and rights of way; or, with the approval of the mayor, the board may, upon advertisement for not less than ten days in some newspaper of general circulation, published in the city and county, sell sufficient of said bonds, at not less than par, to pay the expenses and interest mentioned in this proviso in cash.

Section 313. All such bonds shall bear interest at the rate of not more than six per cent. per annum, as ordered by the board and council, payable semi-annually, the interest to be evidenced by coupons, attested by a facsimile of the signature of the auditor.

All such bonds, principal and interest, shall be payable at the city and county of Denver, but if the board so orders, they may also be payable at some national bank or trust company in the city of New York, in the state of New York, to be designated by the board, and in all cases the bonds and coupons shall recite the place or places of payment, and when

payable also in the city of New York, the treasurer is hereby authorized to remit the funds necessary for their payment, with exchange, to the institution so designated, always assuring himself that such institution is then perfectly solvent.

The council may by ordinance, upon the recommendation of the board, by a vote of two-thirds of the members of each body of the council, on behalf of the city and county, guarantee the payment of any bonds issued under the provisions of this article.

Section 314. Whenever considered prudent by the treasurer he may, and whenever funds may be in his hands to the credit of any improvement or park district, exceeding six months' interest on the unpaid principal, he shall by advertisement for five days in some such newspaper, call in a suitable number of the bonds of such district for payment; and at the expiration of thirty days from the first publication of said notice, interest on the bonds so called shall cease. The notice shall specify the bonds so called by number; and all bonds shall be paid in their numerical order. The holder of any bonds may at any time furnish his postoffice address to the treasurer and in such case a copy of said advertisement shall be mailed by the treasurer to the holder of the bonds called, at said address, on the first day of said publication.

CONTRACTS.

Section 315. All contracts for local improvements, and all other contracts involving expenditures under the direction of the board, shall be let by the mayor, upon recommendation of the board, without any action of the council, except in the passage of the original ordinance authorizing the improvement or contracts. All such contracts shall be let to the lowest reliable and responsible bidder, after public advertisement by the board for not less than ten days in some newspaper of general circulation, published in the city and county. Any other mode of letting such

contracts shall be illegal and void and no such contract shall be made without a bond for its faithful performance, with sufficient surety or sureties to be approved by the board and no other surety than a surety company, approved by the board and mayor, shall be accepted. Upon default in the performance of any contract, the board may advertise and let a contract for the uncompleted work in like manner, without further ordinance, and charge the cost thereof to the original contractor upon his contract; and when a deficiency shall in such case occur, the board may, with the approval of the mayor, advance the amount thereof out of any available fund of the city and county, and recover the same by suit on the original contract and bond. In all advertisements the board shall reserve the right to reject all bids and upon rejecting all bids, may again advertise without further ordinance.

Section 316. Every contract shall contain a clause to the effect that it is subject to the provisions of this charter and of the ordinance authorizing the improvement; and shall require that eight hours shall constitute a day's labor for any work done under such contract; that the aggregate payments thereon shall not exceed the aggregate estimate of the engineer or the amounts appropriated; that, upon ten days' notice the work under such contract may, without cost or claim against the city, be suspended by the mayor and board for substantial cause; and that upon complaint of the owner of any of the real estate to be assessed for the improvements, that the improvement is not being constructed in accordance with the contract, the board shall consider the complaint and thereupon make such order in the premises as may be just, and the decision of the board shall be final.

GAS AND WATER CONNECTIONS.

Section 317. Before paying in any district in pursuance of this article, the board may order the

owners of the abutting real estate to connect their several premises with the gas and water mains or with any other conduits in the street, in front of their several premises; and notice of such order shall be given and the order shall be enforced as provided in section 280 hereof in the case of sidewalks; and the council may by ordinance provide any further means for compelling the owners of such property to do the work in this section mentioned and referred to.

TREES.

Section 318. The board may establish rules for the planting and care of trees upon all streets, avenues and boulevards, including the trimming of such trees and the removal of unsightly and dead trees, and to prevent the mutilation of trees, and the council shall by ordinance provide reasonable penalties for the violation of such rules.

§ SUBURBAN IMPROVEMENT DISTRICTS.

Section 319. In all that part of the city and county included within the limits of the former municipalities annexed to the city of Denver, or consolidated with the city and county, except that part of South Denver lying north of Mississippi street, and in all that part of the city and county lying east of Monroe street and of the same extended north and south to the boundary line of the city and county, improvement districts, to be known as suburban improvement districts, may be established by the board for the opening, widening, grading, curbing, guttering, surfacing, paving or otherwise improving of any street, road or alley, or streets, roads or alleys, or for any combination of said improvements, and all provisions of this article relating to such improvements shall apply thereto, except only in the following particulars, namely:

First. Such improvement districts may include all the real estate specially benefited by the proposed

improvements and need not be confined to the real estate abutting on the streets or alleys opened, widened or improved, and the cost of such improvements shall be apportioned and assessed upon all the real estate within such district, except streets, alleys and other public places, according to the special benefits to each piece of real estate in the district, and need not be apportioned in proportion of the area of the lot or piece of real estate to be assessed to the area of the entire district, nor according to frontage.

Second. Whenever the owners of ten per centum of the area of the real estate within a proposed district shall in writing petition the board for the creation of such district, stating the kind of improvement desired and the maximum cost thereof, accompanied by a map of the proposed district suggesting the apportionment of the cost, and accompanied by a good and sufficient certified check, payable to the treasurer, to cover all the estimated expenses in and about the premises, including advertising, to the time of the passage of the ordinance authorizing the improvements to be made, the board shall prescribe such district, and, if a sufficient remonstrance, signed by the owners of real estate against which the aggregate approximate assessment exceeds thirty-five per centum of the total approximate assessment, is not duly filed, order such improvements substantially as petitioned for, and recommend to the council the ordinance therefor; *Provided*, the board approves such proposed improvements, finds the stated maximum cost sufficient, and finds the special benefits substantially as suggested.

Third. The petition may be modified at any time before the publication of the notice required to be published by the second proviso of section 272 hereof, at the request of the signers or their duly authorized representatives, but if additional expense is incurred thereby, such additional expense must be deposited as aforesaid. The maximum cost stated in

the petition shall not be exceeded, and the apportionment thereof shall be substantially as indicated on said map. Upon the passage of said ordinance the amount or amounts deposited as aforesaid shall be returned; but if the proceedings shall fail, the board shall pay out of said deposits all of said expenses, including advertising, and only the balance shall be returned to the depositors; *Provided*, that nothing in this section contained shall prevent the board from also prescribing districts and making any of the improvements in this and in the preceding sections of this article mentioned, within the territory mentioned in this section, according to and as in the preceding sections of this article provided; and that the board may also proceed under this section without petition. No provision of this charter limiting the amount of any special assessment or limiting the size of any district shall apply to improvements under this section.

CHERRY CREEK IMPROVEMENT.

Section 320. The council may authorize the construction of walls or embankments, and roads or driveways along such walls or embankments, along Cherry creek or any part or parts thereof, and after hearings to assess the whole or any part of the entire cost, except the cost in the intersections of streets and alleys; upon all the real estate, railway rights of way and all property benefited thereby, within a district or districts of lands, to be specified by ordinance, upon the recommendation of the board, and in proportion to the benefits accruing to said lands, rights of way and property, in consequence of said improvement. The whole cost in the intersections of streets and alleys shall be paid by the city and county.

All proceedings shall be as required in the first, second and sixth provisos of section 272 hereof, and all the provisions of this article with regard to the authorizing and constructing of viaducts and tunnels,

the distribution of costs between the city and county, and the real estate, rights of way and railway companies, the acquiring of rights of way, issuance of bonds, the necessary assessments, and collection and payment of the cost of such improvements, shall apply as far as the same are applicable, and payment shall be made in not less than ten nor more than fifteen equal annual installments, as may be determined by the board, and enforced by the sale of the property benefited as in the case of other local improvements.

The city and county, upon the recommendation of the board, may pay any part of the cost of the improvements and the balance only shall be assessed upon said real estate; *Provided*, that if the balance so to be assessed upon the real estate, shall exceed one-half the total cost of such improvements, the making of such improvements shall be subject to remonstrance as in the case of viaducts and tunnels.

PLATTE RIVER.

Section 321. The council may authorize the construction of walls, embankments and roads or driveways along such walls or embankments along the Platte river or any part or parts thereof, and either pay for the whole or any part of the cost thereof, or provide for the payment of the whole or any part thereof by special assessment; *Provided*, that whenever any part of the cost thereof shall be provided by special assessment, the making of such improvements shall be subject to remonstrance, as in the case of viaducts and tunnels.

EMINENT DOMAIN.

Section 322. Whenever the council shall by ordinance establish, open, widen or alter any street, alley, or other highway, or select and designate any site for any market, auditorium or other building for the use of the city and county, then the city and county

may exercise the power of eminent domain, and condemn the property necessary for said purposes.

The manner of proceeding, the ascertainment of the compensation to be paid, the assessment of benefits or damages, the collection of such benefits and payment of such damages shall be as provided by general law; and the same power may be exercised, and the same procedure shall be pursued in condemning any lands or rights of way for any ditch. It shall not be a bar to any such proceeding that the lands or rights of way to be taken have once been taken for public use.

PARKS.

Section 323. The city and county is hereby divided into four park districts, consisting respectively of the following territory:

The Montclair park district, all that part of the city and county lying east of McKinley avenue, formerly Colorado boulevard.

The South Denver park district, all that part of the city and county lying south and west of Cherry creek and easterly from the Platte river.

The Highland park district, all that part of the city and county lying north and west of a line beginning on the southerly boundary line of the city and county at its intersection with the Platte river, following the course of the Platte river in a northerly direction to the intersection with Cherry creek, thence southeasterly along Cherry creek to its intersection with Larimer street, thence along Larimer street to its intersection with Downing avenue, thence along Downing avenue to Thirty-eighth street, along Thirty-eighth street to the Platte river, following the course of the Platte river to its intersection with the northerly boundary line of the city and county.

The East Denver park district, all the remaining territory of the city and county.

Section 324. In addition to the powers herein conferred to acquire lands for parks and park-ways by the sale of the general bonds of the city and county, it shall be lawful for the park commission, with the approval of the mayor, to acquire parks and park-ways in each of the said park districts in the manner following, the same to be paid for by special assessments upon all the other real estate, except parks, park-ways and streets, in such districts, respectively, or partly out of the proceeds of the sale of the general bonds of the city and county, and partly by such assessments, as the same may be determined by the mayor and park commission.

Section 325. For the purpose of acquiring lands for parks and park-ways it shall be lawful for the park commission and said commission is hereby authorized and empowered, by and with the approval of the mayor to select and by a suitable proceeding in the name of the city and county for the use of any such park district, without the passage of any ordinance, to condemn real estate or, with the approval of the mayor, to purchase any real estate so selected for one or more parks or park-ways in each of the said districts and to select routes and streets for the purpose of establishing and maintaining a system of connecting boulevards and pleasure-ways or park-ways therein. All such condemnation proceedings shall be in accordance with the general laws of the state, so far as the same are applicable, but the benefit to other lands shall be ascertained and assessed as required in this article.

Section 326. The parks and park-ways so established in any such park district, or such part thereof as may be determined by the mayor and park commission, shall be paid for in park bonds of the city and county, of date and form prescribed by the park commission, bearing the name of the district, and payable to bearer at such times and in a sufficient period of years to cover the period of payments herein pro-

vided for, with interest annually at such rate, not exceeding six per cent. per annum, as may be determined by the commission. The bonds shall be signed by the mayor, countersigned by the auditor and attested by the clerk and seal of the city and county, with the approval of the president of the park commission endorsed thereon, the interest to be evidenced by suitable coupons attested by a fac simile of the signature of the auditor.

Section 327. Or, whenever the cost of any such park site or park-way can be definitely ascertained, said bonds or any part or parts thereof may be issued and sold by the park commission, with the approval of the mayor, at not less than par, upon public advertisement for not less than ten days in some newspaper of general circulation published in the city and county of Denver, and such other newspapers as may be designated by the mayor and park commission; and the proceeds may be used exclusively by the park commission with the approval of the mayor, in the purchase or condemnation of park sites and park-ways, and in any case sufficient of said bonds may be issued and sold in like manner to pay the costs of surveying, evidencing and acquiring necessary titles, the necessary costs of court, the preparation of the assessment rolls and other incidentals. The bonds so issued shall be paid by special assessment upon all the other real estate in the district in the proportions and amounts determined by the commission and assessed by ordinance, and shall be paid only out of the moneys collected from said assessments; and all the moneys so collected shall be set apart and shall constitute a fund for the payment of said bonds and interest thereon until payment of said bonds and interest in full; *Provided*, that before acquiring any real estate or issuing any bonds for the purposes aforesaid the commission shall prepare a map of the district and apportion the cost of the improvement on all the other real estate in the district

in proportion to the benefits to each piece of real estate accruing in consequence of the establishment of such parks or park-ways in said district, and in accordance with such rules for apportioning the benefits as to the commission may seem just and reasonable; and shall by advertisement for ten days in some newspaper of general circulation published in the city and county, give notice to the owners of the real estate to be assessed of the proposed purchase or condemnation, with a description of the lands to be acquired, the estimated cost, the number of installments and time in which the assessments will be payable, the rate of interest on unpaid installments, the rules adopted by the commission for apportioning the benefits, as aforesaid, and the time, not less than ninety days after the first publication, when the question of the proposed purchase or condemnation will be considered by the commission; that said map and all proceedings of the commission are on file and can be seen and examined by any person interested during business hours, within said period of ninety days, at the office of the secretary of said commission, and that all complaints and objections that may be made in writing by owners of any real estate to be assessed will be heard and determined by the commission before final action of the commission in the premises.

The commission shall, at the time specified or thereafter, consider all such complaints and objections, and may modify or confirm their apportionments, and shall finally determine whether said lands shall be acquired for said purposes; but if, within the time above specified a remonstrance shall be filed with the secretary of said commission, subscribed by the owners of twenty-five per cent. in area of the real estate which is to be assessed, then the proposed purchase or condemnation shall not be made, and the proceedings shall not be renewed for one year thereafter; and the finding of the council by ordinance that such

notice was duly given, or that such remonstrance was or was not filed, or was or was not subscribed by the required number of owners aforesaid, shall be conclusive in every court or other tribunal.

Section 328. When the cost of any such park site or park-way is definitely determined, the park commission shall prepare, certify and file with the clerk, a statement showing the cost thereof as required in section 298 hereof; the clerk shall thereupon give the notice required by section 299 hereof; and thereupon the same proceedings required in section 300 hereof shall be had, except that the proceedings therein provided to be observed by the board shall be observed by the park commission; and the council shall thereupon by ordinance assess the cost against the other real estate as aforesaid, in the district, in accordance with said apportionments.

Section 329. No moneys received from any source for any park district, shall be expended in or for any other park district.

MISCELLANEOUS.

Section 330. In all proceedings authorized or required by this article, figures may be used instead of words, and it shall not be necessary in improvement districts to designate each piece of real estate in the district separately, but general descriptions and quantities may be used except in the assessment rolls, and the cost may be stated as being a probable amount per front foot, or per square foot, or per lot of a given size, and proportionate amounts for other lots, or, when a different rule of assessment is provided, then as being subject to such rule.

Section 331. All petitions for and all remonstrances against paving heretofore filed with the board, and all other proceedings for the making of local improvements, in which other proceedings publication has been commenced of the notice to property

owners required by the second proviso of section 3 of article VII of the previous charter of the city of Denver, or of the city and county of Denver, are hereby preserved; and the same shall hereafter be continued, notices given, ordinances passed, contracts let and completed, and the cost assessed or reassessed and collected in accordance with the provisions of such previous charter. In all such proceedings and contracts the acts and duties required heretofore to be done by the mayor, city clerk, city auditor, city treasurer, city council, board of public works, and engineer of the board, or any officer of the city of Denver, or of the city and county of Denver, by the said charter or by the constitution or by general law, shall be performed by their respective successors, the mayor, clerk, auditor, treasurer, council, board of public works, engineer, or any other officer or department of the city and county who are authorized by this charter to perform their respective or like duties.

Section 332. No action or proceeding, at law or in equity, to review any acts or proceedings, or to question the validity or enjoin the performance of any act, or the issue or collection of any bonds, or the levy or collection of any assessments, authorized by this article, or for any other relief against any acts or proceedings done or had under this article, or under the previous charter of the city of Denver, or of the city and county of Denver, with reference thereto, whether based upon irregularities or jurisdictional defects, shall be maintained, unless commenced within ninety days after the performance of the act or the passage of the resolution or ordinance complained of, or else be thereafter perpetually barred; *Provided*, that as to any such cause of action now existing and not heretofore barred, such action may be commenced within ninety days after the adoption of this charter. All the acts and proceedings of the board of public works of the city of Denver, and of the city and county of Denver, in relation to public improvements, authorized by

the charter of the city of Denver and of the city and county of Denver or other law, are hereby ratified and confirmed. Nothing herein contained shall affect pending litigation concerning the Fourteenth street viaduct.

ARTICLE XII.

CHANGING CHANNEL OF CHERRY CREEK.

Section 333. The council shall have power and authority, upon the recommendation of the board of public works, by ordinance to provide for changing and turning the channel and bed of Cherry creek by any suitable means, and by the excavation and maintenance of a new channel, canal or ditch upon such line within or without the territorial limits of the city and county, as said board and the council shall deem advisable, so as to direct the flow of water from the old channel of said creek, or from such part thereof as may be designated in such ordinance.

Section 334. The board shall first cause surveys of the proposed changes and improvements to be made, and estimates of the cost thereof by each route or line surveyed, and shall report the same to the council, with such recommendations as to said board may seem advisable.

Section 335. Whenever provision has been made for the payment of the cost of said improvements, the board may, in the name of the city and county, by purchase or condemnation, acquire the necessary lands and easements for such new channel, ditch, canal, and for any dam, breakwater or levee, or other structures incidental thereto.

Section 336. Upon the passage of such ordinance and provision for such payment, the board shall have the exclusive power to make said changes and improvements, and, with the approval of the mayor, to expend any and all moneys provided for the payment therefor, and the contract shall be awarded by

the mayor, with the approval of said board, without any action by the council, except in the passage of the ordinance authorizing said improvements.

Section 337. Said new channel and property when acquired and completed shall become the property of the city and county, and of the public, as fully and completely as though said new channel and the waters flowing and to flow therein were the original and natural stream of said creek; *Provided*, that the old channel of said creek from below the point of its passage to such new channel shall, nevertheless, be and remain the property of the city and county, and public property to the same extent that the same has heretofore been the property of the city and public property.

ARTICLE XIII.

RIGHTS AND LIABILITIES.

Section 338. All ordinances may be proved by a copy thereof certified by the clerk, under the seal of the city and county; or when printed in book or pamphlet form, and purporting to be published by authority of the city and county, the same shall be received in evidence in all courts or other places, without further proof.

Section 339. When in any action or proceeding in any court of the city and county, its officers may be required to give any bond or undertaking, in their official capacity or on behalf of the said city and county, such bond shall be accepted without sureties if subscribed by the mayor or other officers, with the seal of the city and county, and attested by the clerk.

Section 340. Any person who shall violate any of the provisions of this charter for the violation of which no punishment has been provided herein, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding one hundred dollars, or by imprisonment in

the city and county jail not exceeding three months, or by both such fine and imprisonment. In all cases of violation of the provisions of this charter, or any ordinance of the city and county, the several justices of the peace of the city and county shall have original jurisdiction and an appeal may be taken by the aggrieved party from such judgments to the county court, where such cases shall be tried *de novo*.

Section 341. The mayor, clerk, auditor, treasurer and assessor, and their respective deputies, the members of any commission or head of any department, shall have power to administer oaths and affirmations, except oaths of office.

Section 342. Before the city and county shall be liable for damages to any person injured upon any of the streets, avenues, alleys, sidewalks or other public places of the city and county, the person so injured or some one on his behalf, shall, within sixty days after receiving such injuries, give the mayor notice in writing of such injuries, stating fully in such notice, when, where and how the injuries occurred and the extent thereof.

Section 343. Whenever any action to which the city and county is a party defendant is commenced in any court of record to recover damages for personal injuries alleged to have been occasioned by reason of negligence of the city and county or of any of its officers or agents, it shall be lawful for the court, upon application of the city and county, to appoint not more than two competent and disinterested witnesses for the purpose of making examination as to the fact and extent of the alleged injuries; and it shall be the duty of the plaintiff to submit to such examination by such witnesses for such purpose, upon the order of the court, and to such extent only as may be specified therein; and if the plaintiff shall refuse to submit to such examination in compliance with such order, then no evidence shall be received upon the trial concerning any injuries of which in and by

the order of the court such witnesses were authorized to make examination.

Section 344. If any person shall recover judgment against the city and county for damages sustained to person or property by reason of any defect in the streets, avenues, alleys or public places of the city and county, the city and county shall have the right to recover the amount of said judgment from any person or corporation who may have caused such defect or from whose negligence such defect may have been occasioned; *Provided*, such person or corporation so causing such defect as aforesaid, shall have notice of the pendency of any action against the city and county in favor of the person sustaining damages as aforesaid, but in the absence of such notice, the person or corporation so causing such defect as aforesaid, shall not be concluded as to any matter of fact determined in the action against the city and county by the person sustaining damages as aforesaid.

Section 345. No territory within the city and county shall be so platted as to dedicate any street, alley or other public highway, without the approval of the council. Owners shall submit to the council a plat of any proposed division, showing the adjacent streets and alleys, and the topography of the platted territory, accompanied by a certificate of title from the attorney. No territory shall be platted unless all taxes and special assessments thereon shall have been paid. One plat shall be filed with the engineer and another with the recorder.

Section 346. In all appropriations and expenditures of public money for fire and police protection, care and maintenance of streets, the furnishing of light, and of water, the council shall set aside for and expend in that part of the city and county included within the limits of the municipalities annexed to the city of Denver, or consolidated with the city and county, its just share in proportion to the assessed valuation, as near as may be, to be distributed among

the sections comprised by the former municipalities in the same proportion, and the water, and light service, and fire and police protection of such former municipalities shall not be curtailed.

Section 347. No officer or employe shall hold or enjoy any other public office or public employment for which he is paid any compensation. No officer or employe shall become surety on the official bond of any other officer or employe.

ARTICLE XIV.

SCHEDULE.

Section 348. Except as otherwise herein provided, all ordinances in force at the time of the adoption of this charter, so far as not inconsistent herewith, shall remain in full force and effect until they expire by their own limitation or until amended or repealed by the council. All rights, liabilities, obligations, suits, actions, prosecutions, claims and contracts of the city of Denver, the former county of Arapahoe, the included municipalities, and the city and county of Denver shall remain and continue in full force and effect as if the form of government had not been changed and this charter adopted.

Section 349. All the ordinances of each of the former municipalities included within the boundaries of the city and county of Denver, establishing fire limits, providing for building restrictions or prescribing the character of buildings to be erected within such municipalities, or any portion thereof, shall be in force and effect until otherwise provided by the council.

Section 350. All recognizances, obligations and other instruments entered into or executed before the adoption of this charter, to the city of Denver, the former county of Arapahoe, any included municipality, the city and county of Denver or any officer thereof and all taxes, fines, penalties and forfeitures

due or owing to the city of Denver, the former county of Arapahoe, any included municipality, the city and county of Denver, or any officer of any of them, and all rights, prosecutions, actions and causes of action shall continue and remain unaffected by any change in the form of government or by the adoption of this charter.

Section 351. The police magistrate's court of the city and county of Denver, and the term of office of the judge, clerk and bailiff thereof, shall terminate immediately upon the election and qualification of the justices of the peace, at the first city and county election herein provided for. But all pending unsatisfied sentences, judgments or convictions of said court, or appeal or appeals therefrom shall stand in all respects as though said court had not been terminated. All records of and proceedings in said court shall at the termination thereof, be by the judge and clerk thereof, turned over to the justice of the peace first performing the duties of police magistrate under this charter, who shall proceed with all unfinished business thereof in all respects as though the same had originated in his court. Within ten days after the termination of the police magistrate's court hereunder, the judge and clerk shall make a complete report to said justice of the peace, showing the number and amount of unpaid fines and penalties by him imposed, with the names of the defendants or persons liable therefor. He shall also within said time, render an account under oath, and pay over to the auditor all such fines, penalties and other moneys in his hands or those of the clerk, belonging to the city and county.

Section 352. The county court herein established shall be the successor of the county court of the former county of Arapahoe and of the city and county of Denver. The justices of the peace provided for in this charter shall be the successors of the justices of the peace in the former county of Arapahoe and the included municipalities and in the city and county of

Denver and of the police magistrate's court of the city of Denver and of the city and county of Denver and of police magistrate courts of included municipalities, with full power to continue to prosecute to final conclusion all suits, actions and prosecutions now pending and undetermined in said courts and with full power to enforce all judgments heretofore entered in any and all of said courts.

Section 353. All election districts and precincts within the boundaries of the city and county as at the present time established shall remain until changed or abolished by law or ordinance.

ARTICLE XV.

AUDITORIUM.

Section 354. There shall be submitted to the vote of the taxpaying electors at the next election succeeding the adoption of this charter, the following question:

Question:—Shall the city and county of Denver issue bonds to an amount not exceeding four hundred thousand dollars, bearing interest at a rate not exceeding four per centum per annum, and maturing in not less than fifteen, nor more than thirty years, the principal to be payable in equal annual installments, commencing the first year following the issue of the bonds, for the purpose of erecting a public auditorium, including the purchase of a site therefor, if desired?

Answers:

Yes.

No.

Voters wishing to vote in the affirmative shall put a cross (X) after the word yes; those wishing to vote in the negative shall put a cross (X) after the word no.

In case the issuance of bonds for the erection of an auditorium be authorized, the council shall select and may condemn or purchase the site therefor; and the board of public works shall erect the auditorium and have control of all matters in connection therewith, except the selection and acquisition of the site. The auditorium may include accommodations for other purposes and when not needed for the use of the city and county, the auditorium or any part thereof may be rented. The auditorium, when completed, shall be under the control of the commissioner of supplies under such rules and regulations as the council may determine.

DONE IN CONVENTION, at the council chamber, in the city and county of Denver, Colorado, this 6th day of February, in the year of our Lord, one thousand nine hundred and four, and of the independence of the United States the one hundred and twenty-eighth.

IN WITNESS WHEREOF, we have hereunto subscribed our names.

CHARLES H. MARSHALL,
President.

HARPER M. ORAHOOD,
Vice-President.

CHARLES M. BROWN.

THOMAS F. DALY.

JACOB FILLIUS.

JOHN GAFFY.

ALICE POLK HILL.

DAVID K. LEE.

OSCAR REUTER.

WM. H. SHARPLEY.

JOS. C. SHATTUCK.

AUGUST J. SPENGEL.

HUGH L. TAYLOR.

CHARLES S. THOMAS.

EDWARD F. TRUNK.

THOMAS E. WATTERS.

WM. F. WEBB.

CLAY B. WHITFORD.

HIRAM G. WOLFF.

BENJ. E. WOODWARD.

ADOLPH J. ZANG.

Attest:

CHARLES W. VARNUM, *Secretary.*

W. L. Carey Jones

THE CHARTER

OF THE

CITY OF GRAND JUNCTION, COLORADO.

FRAMED BY THE CHARTER CONVENTION, AUGUST 6, 1909.

BY AUTHORITY OF ARTICLE XX. OF THE CONSTITUTION.

To Be Voted on September 14, 1909.

OFFICIAL COPY.

Printed by Authority of the City.



THE PROGRESS PRESS, GRAND JUNCTION COLO.

PREFATORY SYNOPSIS

OF THE

CHARTER OF THE CITY OF GRAND JUNCTION, COLO.

The intent and purpose of this charter is to establish a free and independent city, and to restore to and vest in the people of the city, so far as the constitution of the state will permit, their natural, inherent, and inalienable right of local self-government, with all its powers, duties, and responsibilities.

To that end, under and by the provisions of this charter:—

The municipal government is vested, independently of legislative interference, with all powers not denied it by the constitution of the state.

The people of the city are vested with its supreme legislative powers, with easy preliminary conditions in making and changing its charter and ordinances, and also with the absolute and exclusive power of authorizing, regulating or terminating its public service corporations, and of recalling its elective officers.

The preferential system of voting has been established, in lieu of direct primaries or of second elections, thus securing a unique and accurate expression of the public will at the polls, with the minimum of cost and effort.

Partisan and machine politics and government are inhibited, and a municipal democracy substituted therefor.

No fixed tenure of office or employment is permitted except, subject to recall of elective officers, and, as authorized by a classified civil service, for employees.

The city wards and the saloons have been abolished.

Opportunities for graft and favoritism in innumerable directions have been eliminated.

Boards have been established to care for the public library, parks, charities, and civil service.

The city has been divided into five administrative departments, viz.:

- I. Public Affairs.
- II. Finance and Supplies.
- III. Highways.
- IV. Health and Civic Beauty.
- V. Water and Sewers.

The question of having three commissioners to administer the five departments, instead of the five provided for in the charter, is submitted as an alternative question to a vote of the qualified electors at the same time that they vote on the adoption of the charter.

The commission form of government has been improved and adopted, electing each commissioner directly to his department, and clearly defining his duties.

Each commissioner is required to take the active charge and management of his department, giving his whole time thereto, and has before

him the opportunity and incentive of becoming a specialist therein, and thus of establishing a most efficient administration.

The mayor as judge of the Municipal Court, superceding a judgeship dependent on the fee system, also as chief executive and head of the police department, is made the paternal guardian of juvenile and other unfortunate police-classes.

An efficient financial system and purchasing agency for the city has been provided, and special taxation limited.

A beautiful, sanitary and prosperous city is provided for.

The city water works system is retained, its extension and improvement facilitated, and equitable rates for water not exceeding cost, are required.

The proposed charter preserves every valuable feature of our state laws, and has introduced only such new provisions as, after careful consideration, were deemed advisable and necessary.

The contents are arranged as follows:

- | | |
|---------------|---|
| Article I. | Name, Boundaries, Powers, Rights and Liabilities. |
| Article II. | Elections. |
| Article III. | Recall of Elective Officers. |
| Article IV. | Elective Officers. |
| Article V. | The Mayor. |
| Article VI. | The Council. |
| Article VII. | Executive and Administrative Departments. |
| Article VIII. | Department of Public Affairs. |
| Article IX. | Department of Finance and Supplies. |
| Article X. | Department of Highways. |
| Article XI. | Department of Health and Civic Beauty. |
| Article XII. | Department of Water and Sewers. |
| Article XIII. | Officers and Employes. |
| Article XIV. | Franchises and Public Utilities. |
| Article XV. | Commissions and Boards. |
| Article XVI. | Direct Legislation by the People. |
| Article XVII. | General Provisions. |

THE CHARTER

OF THE

CITY OF GRAND JUNCTION, COLORADO.

PREAMBLE.

We, the people of the city of Grand Junction, under the authority of the constitution of the State of Colorado, do ordain and establish this Charter for the city of Grand Junction, Colorado.

ARTICLE I.

NAME, BOUNDARIES, POWERS, RIGHTS AND LIABILITIES.

1. Name—Boundaries.—The municipal corporation now existing and known as the "City of Grand Junction," shall remain and continue to be a body politic and corporate under the same name and with the same boundaries, with power and authority to change its boundaries in manner authorized by law.

2. Powers—Rights—Liabilities.—By the name of the "City of Grand Junction," the city—

(a) Shall have perpetual succession, and shall own, possess and hold all property, real and personal, theretofore owned, possessed, or held by the said City of Grand Junction, and shall assume, manage, and dispose of all trusts in any way connected therewith;

(b) Shall succeed to all the rights and liabilities, and shall acquire all benefits, and shall assume and pay all bonds, obligations and indebtedness of said city of Grand Junction; by that name may sue and defend, plead and be impleaded, in all courts and places, and in all matters and proceedings; may have and use a common seal and alter the same at pleasure; may purchase, receive, hold and enjoy, or sell and dispose of, real and personal property;

(c) May receive bequests, gifts and donations of all kinds of property in fee simple, or in trust for public, charitable, or other purposes; and do all things and acts necessary to carry out the purpose of such gifts, bequest and donations, with power to manage, sell, lease or otherwise dispose of the same in accordance with the terms of the gift, bequest or donation;

(d) Shall have the power, within or without its territorial limits, to construct, condemn and purchase, purchase, acquire, lease, add to, maintain, conduct and operate waterworks, light plants, telephone systems, power plants, transportation systems, heating plants, and any other public utilities or works or ways local in use and extent, in whole or in part, and everything required therefor, for the use of said city and the inhabitants thereof, and any such systems, plants, or works or ways, or any contracts in relation or connection therewith, that may exist and which said city may desire to purchase, in whole or in part, the same or any

part thereof may be purchased by said city which may enforce such purchase by proceedings at law as in taking land for public use by right of eminent domain, and shall have the power to issue bonds upon the vote of the taxpaying electors, at any special or general election, in any amount necessary to carry out any of said powers or purposes;

(e) The legislative, executive and judicial powers of the City shall extend to all matters of local and municipal government, it being the intent hereof that the specifications of particular powers by any other provision of this Charter, shall never be construed as impairing the effect of the general grant of powers of local government hereby bestowed;

(f) The City shall also have all powers, privileges and functions which, by or pursuant to the Constitution of this State, have been, or could be, granted to or exercised by any City of the first or second class;

(g) All powers of the City shall, except as otherwise provided in this Charter, be vested in its elective officers, subject to distribution and delegation of such powers as provided in this Charter or by ordinance.

ARTICLE II.

ELECTIONS.

3. General and Special Municipal Elections.—A municipal election shall be held in the city on the first Tuesday after the first Monday in November 1909, and on the first Tuesday after the first Monday in November on every second year thereafter, and shall be known as the General Municipal Election. All other municipal elections that may be held, shall be known as Special Municipal Elections.

4. Registration.—No person shall be permitted to vote at any municipal election without having been registered. The registration shall be the same as is now or may hereafter be provided by the general laws of the State, except as the council may otherwise by ordinance provide.

5. Judges and Clerks.—The judges and clerks of any election shall be selected from a list of persons, one each of whom may be proposed for each election precinct by each candidate. In case there are five candidates or more who present lists at any election, not more than one judge or clerk of election shall be chosen for each precinct from the names proposed by any one candidate. All such lists shall be proposed in writing at least fifteen days before election. In case an insufficient number of names are so proposed, the city council may select such number as may be necessary in order to provide three judges and two clerks for each election precinct.

6. Nomination and Election of Officers.—The mode of nomination and election of all elective officers of the city to be voted for at any municipal election shall be as follows and not otherwise:

7. Condition of Candidacy.—The name of a candidate shall be printed upon the ballot when the petition of nomination shall have been filed in his behalf, in the manner and form and under the conditions hereinafter set forth.

8. Form of Nomination Petition.—The petition of nomination shall consist of not less than twenty-five (25) individual certificates which shall read substantially as follows:

PETITION OF NOMINATION.

Individual Certificate.

STATE OF COLORADO, {
County of Mesa, { ss.
City of Grand Junction. }

I do hereby join in a petition for the nomination of.....
.....whose residence is at No.....
Street, Grand Junction, for the office of.....,
to be voted for at the municipal election to be held in the city of Grand
Junction, on the.....day of.....19.....;
and I certify that I am a qualified elector, and am not at this time a
signer of any other certificate nominating any other candidate for the
above named office; that my residence is at No.....
Street, Grand Junction, and that my occupation is.....

I also certify that I believe the above named person is especially
qualified to fill the said office and is of a good moral character. I further
certify that I join in this petition for the nomination of the above named
person believing that he has not become a candidate as the nominee or
representative of, or because of any promised support from any political
party, or any committee or convention representing or acting for any
political party.

(Signed).....

STATE OF COLORADO, {
County of Mesa, { ss.
City of Grand Junction }

....., being first duly sworn,
deposes and says that he is the person who signed the foregoing certificate,
and that the statements therein are true.

(Signed).....

Subscribed and sworn to before me this.....day of
....., A. D. 19.....

My commission expires.....

Notary Public.

The petition of nomination, of which this certificate forms a part shall, if found insufficient, be returned to..... at No.....Street, Grand Junction.

9. Forms Supplied by City Clerk.—It shall be the duty of the city clerk to furnish upon application, a reasonable number of forms of such individual certificates, and of acceptances or rejections of nomination.

10. Requirements of Certificate.—Each certificate must be a separate paper. All certificates must be of a uniform size as determined by the city clerk. Each certificate must contain the name and signature of one signer thereto and no more. Each certificate must contain the name of one candidate and no more. In case an elector has signed two or more conflicting certificates, all such conflicting certificates shall be rejected. Each signer must make oath to his certificate before a Notary Public substantially in the form prescribed in section 8 of this article.

11. Date of Presenting Petition.—Twenty-five or more of such individual certificates shall constitute a petition of nomination for any one candidate, and shall be presented to the city clerk, not earlier than thirty nor later than twenty days before the election. The clerk shall endorse thereon the date upon which the petition was presented to him, and by whom presented.

12. Examination of Petition by City Clerk.—When a petition of nomination is presented to the city clerk for filing, he shall forthwith examine the same, and ascertain whether it conforms to the provisions of this article. If found not to conform thereto, he shall then and there in writing on said petition state the reason why such petition cannot be filed, and shall forthwith return the petition to the person presenting the same, named as the person to whom it shall be returned in accordance with this article. The petition may then be amended and again, but not later than three days after said petition shall have been returned, presented to the city clerk, as in the first instance. The city clerk shall forthwith proceed to examine the amended petition as hereinbefore provided.

13.—Filing of Petitions.—If either the original or the amended petition of nomination be found sufficiently signed, as hereinbefore provided, the city clerk shall file the same forthwith.

14. Withdrawal or Acceptance.—Any person whose name has been presented under this article as a candidate may, not later than fifteen days before the election, cause his name to be withdrawn from nomination by filing with the city clerk a request therefor in writing, under his own signature, duly attested by a Notary Public, and no name so withdrawn shall be printed upon the ballot. Any person nominated under this article shall file his acceptance with the city clerk not later than fifteen days before the day of election, and in the absence of such acceptance, the name of the candidate shall not appear on the ballot.

15.—Form of Acceptance.—The acceptance mentioned in the preceding paragraph shall be substantially in the following form:

STATE OF COLORADO, }
County of Mesa, }
City of Grand Junction. } ss.

I,, having heretofore been nominated for the office of.....in said city, do hereby accept the said nomination, and I have not become, and am not a candidate as the nominee or representative of, or because of any promised support from any political party, or any committee or convention representing or acting for any political party, or organization.

(Signed).....

Subscribed and sworn to before me this.....day of
....., A. D. 19....

My commission expires.....

.....
Notary Public.

16.—Preservation of Petitions, Etc.—The city clerk shall preserve in his office, for a period of two years, all petitions of nomination, and all certificates, acceptances, and rejections belonging thereto filed under this article.

17. Election Notices.—The city clerk shall, on the tenth day before every city election, certify a list of the candidates so nominated for office at such election, whose names are entitled to appear on the ballot, as being the list of candidates nominated as required by this charter, together with the offices to be filled at such election, designating whether such election is for a full or unexpired term; and he shall file in his office said certified list of names and the offices so to be filled, and he shall cause to be published in a notice calling such election, for three successive days before such election, in two daily newspapers of general circulation, and published in the city of Grand Junction, an election notice, which said notice shall contain a list of said names of candidates, the offices to be filled, and the time when, and the places of holding such election.

18. Preferential Ballot—Form.—The city clerk shall cause ballots for each general and special election to be printed, bound, numbered, endorsed, and authenticated, as provided by the constitution and laws of the State, except as otherwise required in this Charter. The ballots shall contain the full list and correct name of all the respective offices to be filled, and the names of the candidates nominated therefor. It shall be in substantially the following form with the cross (X) omitted when there are four or more candidates for any office. (When there are three and not more candidates for any office, then the ballot shall give first and

second choice only; when there are less than three candidates for any office, all distinguishing columns as to choice, and all reference to choice, may be omitted.)

GENERAL (OR SPECIAL) MUNICIPAL ELECTION, CITY OF GRAND JUNCTION. (Inserting date thereof)

Instructions.—To vote for any person, make a cross (X) in ink in the square in the appropriate column according to your choice, at the right of the name voted for. Vote your first choice in the first column; vote your second choice in the second column; vote any other choice in the third column; vote only one first and only one second choice. Do not vote more than one choice for one person, as only one choice will count for any candidate by this ballot. Omit voting for one name for each office, if more than one candidate therefor. All distinguishing marks make the ballot void. If you wrongly mark, tear, or deface this ballot, return it, and obtain another.

Commissioners of Public Affairs.	First Choice	Second Choice	Third Choice
John Doe			X
James Foe	X		
Louis Hoe		X	
Dick Joe			X
Richard Roe			
Commissioner of Highways.			
Mary Brown	X		
Harry Jones		X	
Fred Smith			
Commissioner of Water and Sewers.			
Joe Black	X		
Robert White			

Charter Amendments, Ordinances, or Other Referendum Propositions.

19. Blank Spaces for Additional Candidates.—One space shall be left below the printed names of the candidates for each office to be voted for, wherein the voter may write the name of any person for whom he may wish to vote.

20. Requirements of Ballots.—All ballots printed shall be identical, so that without the numerical number thereon it would be impossible to distinguish one ballot from another. Space shall be provided on the

ballot for Charter Amendments or other questions to be voted on at the municipal elections, as provided by this charter. The names of candidates for each office shall be arranged in alphabetical order of the sur-names. Nothing on the ballot shall be indicative of the source of the candidacy, or of the support of any candidate. No ballot shall have printed thereon any party or political designation or mark, and there shall not be appended to the name of any candidate any such party or political designation or mark, or anything indicating his views or opinions.

21. Sample Ballots.—The city clerk shall, at least five days before the election, cause to be printed not less than five hundred sample ballots, upon paper of different color, but otherwise identical with the ballot, to be used at the election, and shall distribute the same, upon application of the candidates, to the registered voters at his office.

22. Canvass and Election.—As soon as the polls are closed, the election judges shall immediately open the ballot boxes, take therefrom and count the ballots, and enter the total number thereof on the tally sheet provided therefor. They shall also carefully enter the number of the first, second, and third choice votes for each candidate on said tally sheet and make return thereof to the city clerk as provided by law. No vote shall be counted for any candidate more than once on any ballot, all subsequent votes on that ballot for that candidate being void.

The person receiving more than one-half of the total number of ballots cast at such election as the first choice of the electors for any office shall be elected to that office; provided, that if no candidate shall receive such a majority of the first choice votes for such office, then and in that event, the name of the candidate printed on the ballot having the smallest number of first choice votes, and all names written on the ballot having a less number of votes, than such last named candidate, shall be excluded from the count, and votes for such candidate or persons so excluded shall not thereafter be counted. A canvass shall then be made of the second choice votes received by the remaining candidates for said office; said second choice votes shall then be added to the first choice votes received by each remaining candidate for such office, and the candidate receiving the largest number of said first and second choice votes, if such votes constitute a majority of all ballots cast at such election, shall be elected thereto; and provided, further, that if no such candidate shall receive such a majority after adding the first and second choice votes, then and in that event, the name of the candidate then having the smallest number of first and second choice votes shall be excluded from the count, and no votes for such candidate so excluded shall thereafter be counted. A canvass shall then be made of the third choice votes received by the remaining candidates for such office; said third choice votes shall then be added to the first and second choice votes received by each remaining candidate for such office, and such remaining candidate receiving the highest number of first, second, and third choice votes shall be elected thereto. When the name of but one person remains as a candidate for any office, such per-

son shall be elected thereto regardless of the number of votes received.

A tie between two or more candidates is to be decided in favor of the one having the greatest number of first choice votes. If all are equal in that respect, then the greatest number of second choice votes determine the result. If this will not decide, then the tie shall be determined by lot, under the direction of the canvassing board.

Whenever the word "majority" is used in this section, it shall mean more than one-half of the total number of ballots cast at such election.

23. Informalities in Election.—No informalities in conducting municipal elections shall invalidate the same, if they have been conducted fairly and in substantial conformity with the requirements of this charter.

24. Use of Carriages on Day of Election.—No candidate for any elective office shall directly or indirectly use or cause to be used in aid of his candidacy on the day of any municipal election, more than one carriage or other vehicle to aid voters to get to the polling places. Such carriage or other vehicle shall be used to transport only those voters who by reason of illness or other infirmity are unable to go to the polling places unless so transported. Any candidate desiring to use the one carriage or other vehicle above mentioned shall, not less than one day prior to the day of election, file in the office of the clerk a statement of such desire on his part, which shall contain such a description of the carriage or vehicle he desires to use as will readily identify the same. No other carriage or vehicle than the one so described in the said statement shall be used by the said candidate, or by any committee or association promoting his candidacy for the purpose of conveying voters to the polling places on the day of election.

A violation of any of the provisions of this section by any candidate shall disqualify him from holding the office for which he is a candidate.

Every elective officer of the city shall, at the time he takes the oath of office, be required to take and subscribe an oath that he has not violated any of the provisions of this section.

25. General Election Regulations.—The provisions of any State law, now or hereafter in force, except as the council may otherwise by ordinance provide, relating to the qualifications and registration of electors, the manner of voting, the duties of election officers, the canvassing of returns, and all other particulars in respect to the management of elections, except as otherwise provided in this article, so far as they may be applicable, shall govern all municipal elections; provided, also, that the Council shall meet as a canvassing board and duly canvass the election returns within two days after any municipal election. Whenever any member of the council is a candidate for re-election, the council shall appoint some Justice of the Peace or Notary Public of said city to take the place of said candidate upon said canvassing board as a member thereof.

26. Voting Machines.—The city council may by ordinance authorize the use of voting machines, provided said machines are so constructed as

to carry out the provisions of this article in reference to Preferential Voting; provided, however, said ordinance may be adopted only upon vote of the qualified electors of the city.

ARTICLE III.

RECALL OF ELECTIVE OFFICERS.

27. Applies to All Elective Officers.—Any holder of an elective office may be recalled and removed therefrom by the qualified electors of the city as provided in this Article.

28. Petition for Recall.—Any qualified elector of the city may make and file with the city clerk an affidavit containing the name of the officer sought to be removed, and a specific statement of the grounds of removal. The Clerk shall thereupon deliver to the elector making such affidavit, a sufficient number of copies of petitions for such recall and removal, printed forms of which he shall keep on hand. Such petitions shall be issued by the clerk with his signature and official seal thereto attached; they shall be dated and addressed to the city council, shall contain the name of the person to whom issued, the number of forms so issued, the name of the person sought to be removed, the office from which such removal is sought, the grounds of such removal as stated in said affidavit, and shall demand the election of the successor to such office, a copy of which petition shall be entered in a record book to be kept in the office of said Clerk. Any defect in said form or record shall not invalidate the same. Said recall petition must be returned and filed with said Clerk within thirty days of its issuance. Said petitions before being returned and filed, shall be signed by qualified electors equal in number to at least twenty per centum of the last preceding vote cast for all the candidates for Governor of the State of Colorado by the electors of the city, and to each such signature shall be attached his place of residence, giving the street and number. Such signatures need not all be on one paper. One of the signers of each such paper shall make an affidavit thereto that the statements therein contained are true, and that each signature appended to the paper is the genuine signature of the person whose name it purports to be. All such papers for the recall of any one officer shall be fastened together and filed as one instrument, with the indorsements thereon of the names and addresses of three persons designated as filing the same.

29. Petition May Be Amended or New Petition Made.—Within ten days from the filing of said petition, the clerk shall ascertain by examination thereof and of the registration books and election returns, whether the petition is signed by the requisite number of qualified electors, and shall attach thereto his certificate showing the result of such examination. He shall, if necessary, be allowed extra help by the council.

If his certificate shows the petition to be insufficient, he shall within said ten days so notify in writing one or more of the persons designated on the petition as filing the same; and the petition may be amended at

any time within ten days from the filing of the certificate. The clerk shall, within ten days after such amendment, make like examination of the amended petition, and attach thereto his certificate of the result. If still insufficient, or if no amendment is made, he shall return the petition to one of the persons designated thereon as filing it, without prejudice, however, to the filing of a new petition for the same purpose.

30. Election Under Recall Petition, Unless Officer Resigns. If the petition or amended petition shall be found and certified by the Clerk to be sufficient, he shall submit the same with his certificate to the Council without delay, and the Council shall, if the officer sought to be removed does not resign within five days thereafter, thereupon order an election to be held on a Tuesday fixed by it, not less than thirty nor more than forty days from the date of the Clerk's certificate that a sufficient petition is filed; provided, however, that if any other municipal election is to occur within sixty days from the date of the Clerk's certificate, the Council may, in its discretion, postpone the holding of the removal election to the date of such other municipal election. If a vacancy occur in said office after a removal election has been so ordered, the election shall nevertheless proceed as in this Article provided.

31. Candidates—Election.—Any officer sought to be removed may be a candidate to succeed himself, and unless he requests otherwise in writing, the Clerk shall place his name on the official ballot without nomination. The nomination of other candidates, the publication of notice of such removal election, and the conduct of the same, shall all be in accord with the provisions of Article II hereof, relating to elections.

32. Incumbent Removed.—The incumbent shall continue to perform the duties of his office until the removal election. If then elected, he shall continue in office for the balance of his term. If not then elected, he shall be deemed removed upon the qualification of his successor, who shall hold office during the unexpired term. If the successor fails to qualify within ten days after receiving notification of his election, the incumbent shall thereupon be deemed removed and the office vacant.

33. No Recall Petition for First Three Months.—No recall petition shall be filed against any officer until he has actually held his office for at least three months.

34. Incapacity of Recalled Officer.—No person who has been removed from an office by recall, or who has resigned from such office while recall proceedings were pending against him, shall be appointed to any office within one year after such removal by recall or resignation.

ARTICLE IV.

ELECTIVE OFFICERS.

35. Officers—Terms—Salaries.—The elective officers of this city shall consist of five commissioners: one of whom shall be the Commissioner of

Public Affairs and ex officio Mayor; one shall be the Commissioner of Finance and Supplies; one shall be the Commissioner of Highways; one shall be the Commissioner of Health and Civic Beauty; and one shall be the Commissioner of Water and Sewers; each of whom shall be elected at large by the qualified electors of the city, and each shall have charge of one department as indicated by his official title.

The terms of all elective officers shall commence at 10 o'clock A. M. on the first Tuesday following their election, and shall be for four years each, and until 10 o'clock A. M. on the first Tuesday following the election and qualification of their successors; provided, however, that the offices of the Commissioners of Finance and Supplies, of Highways, and of Health and Civic Beauty, first elected under this Charter, shall be for two years only, so that their successors shall be elected at the general municipal election in 1911, and every four years thereafter, and the election of the other two commissioners shall first be at the general municipal election in 1909, and every four years thereafter.

The Commissioners of Public Affairs and of Water and Sewers shall each receive a salary of One Hundred and Twenty-Five (\$125.00) Dollars per month, payable monthly, and each of the other three commissioners shall receive a salary of One Hundred (\$100.00) Dollars per month, payable monthly; provided, however, that at any general municipal election, the question of changing or fixing such salaries may be submitted to a vote of the qualified electors of the city.

36. No Further Compensation.—None of any such commissioners shall receive any further compensation for any service he may render the city during his term of office, other than his salary as commissioner; and all fees, salaries, or other moneys coming into his hands by virtue of his office shall be accounted for to the city.

37. Qualifications.—No person shall be eligible to the office of any such commissioner unless he is a qualified elector.

38.—Vacancies.—If a vacancy occur in the office of any such commissioner, the council shall appoint an eligible person to fill such vacancy until the next general or special municipal election, subject to the provisions of the recall, and any such vacancy shall then be filled by election for the unexpired term. A vacancy shall exist when an elective officer fails to qualify for ten days after notice of his election, dies, resigns, removes from the city, absents himself continuously therefrom for three months, is convicted of a felony, or judicially declared a lunatic.

ARTICLE V.

THE MAYOR.

39. Executive and President.—The Mayor shall be the chief executive officer of the city, and president of the council, and when present, shall preside at all meetings.

40. Duties—Authority—Powers—(a) He shall see that the laws of the State, the provisions of this Charter, and the ordinances of the city are duly enforced. He may remit fines, costs, forfeitures, and penalties, imposed for the violation of any ordinance, but shall make a report of such remission to the council at the next meeting thereafter with his reasons therefor. He shall have power to administer oaths.

(b) He shall sign all contracts, bonds, or other instruments requiring the assent of the city, and take care that the same are duly performed. All legal processes against the city shall be served against the Mayor or Acting Mayor.

(c) He shall be charged with the general oversight of all departments, boards and commissions of the city.

(d) He shall be ex officio a member of each board, commission, or body, created or authorized by this Charter, or by any ordinance of the city.

(e) He shall have the right to vote on all questions coming before the council.

(f) He shall have such other rights and powers as may be provided by ordinance not in conflict with this charter.

41. Acting Mayor and Vice President.—The Commissioner of Water and Sewers shall be Vice President of the council, and Acting Mayor of the city, and during the absence or inability of the Mayor to act, shall exercise all his rights and powers.

ARTICLE VI.

THE COUNCIL.

42. Legislative Powers.—The city council shall consist of all the elective officers of the city, and shall, except as otherwise provided by this charter be vested with all the legislative powers of the city.

43. Judge of Their Election.—The council shall be the judge of the election and qualification of its own members, subject to review by the Courts in case of contest.

44. Rules.—The council shall determine its own rules of procedure, may punish its members for disorderly conduct, and compel their attendance at the council meetings.

45. Meetings.—The council shall prescribe the time and place of its meetings, and the manner in which special meetings thereof may be called. The city clerk shall be the clerk of the council, and shall, with the mayor, sign and attest all ordinances and resolutions. A majority of all the members shall constitute a quorum to do business, but a less number may adjourn. The council shall sit with open doors at all legis-

lative sessions and shall keep a journal of its proceedings which shall be a public record.

46. Restrictions Upon Members.—No member of the council shall be elected or appointed to any office, position, or employment, the compensation of which was increased or fixed by the council while he was a member thereof until after the expiration of one year from the date when he ceased to be such a member.

47. Salaried Employees.—The city council shall have the power to authorize, by ordinance, the appointment of such salaried employes as may be necessary to relieve any commissioner of any duties of his department which he shall not have time to perform or which may conflict with his other duties.

48. Contractual Powers.—The city council shall have no power to make any contract of any kind or nature whatsoever, or to make any lease of city property, the operation of which will extend beyond the time of the installation of the new commissioners elected at any general municipal election; nor shall it have any power to sell, abandon, grant, or otherwise dispose of any title or right of the city to any real estate, franchise, right-of-way, street, avenue, alley, or other public property, all such powers being reserved to the people, and to be exercised only by the qualified voters at a general or special municipal election.

49. Intoxicating Liquors.—The sale, exposure for sale, barter, exchange, giving away, manufacture or storage of any spirituous, vinous, malt, fermented, distilled, alcoholic or other intoxicating liquors is hereby inhibited and forbidden within the limits of the city of Grand Junction, and within one mile of the outer boundaries thereof, and the city council shall have no power to license the manufacture or sale of any such liquors. Such giving away and such storage shall not apply to the giving away or storage of such liquors by a person in his private dwelling, provided, such dwelling is not a place of public resort.

It shall be a good defense in any prosecution under this section, or under any ordinance passed in pursuance thereof, to show that the sale in question was at retail, by a regularly licensed pharmacist, for exclusively known medicinal purposes, and that it was sold only in good faith upon written prescription issued, signed, and dated in good faith by a duly licensed physician in active practice in the city of Grand Junction, and that the prescription was used but once.

Each such pharmacist shall keep, in a conspicuous place on the counter, a bound book for public inspection, containing a memorandum entry of such prescription, with the name of the physician prescribing, the name of the person prescribed for, the date, and the number thereof, which entry shall be made and signed by said pharmacist before said prescription shall be filled.

The city council shall pass ordinances providing suitable penalties for a violation of this section, and to make it effective.

50. Ordinances and Resolutions.—(a) In legislative sessions, the council shall act by ordinance, resolution or motion.

(b) The ayes and nays shall be taken upon the passage of all ordinances and resolutions, and entered upon the journal of its proceedings. Upon the request of any member, the ayes and nays shall be taken and recorded upon any motion. Every member when present must vote, and every ordinance passed by the city council shall require on final passage the affirmative vote of a majority of all members of the council.

(c) No ordinance shall be passed finally on the date it is introduced, except in cases of special emergency, for the preservation of the public peace, health or safety, and then only by unanimous vote of all members of the council. No ordinance making a grant of any franchise or special privilege shall ever be passed as an emergency measure.

(d) The enacting clause of all ordinances passed by the council shall be in these words: "BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION."

51. Publication of Ordinances.—Every proposed ordinance shall be published once in full in a daily newspaper of the city, at least ten days before its final passage. After such final passage, it shall be again published once in a daily newspaper as amended and completed, except in cases of an emergency ordinance, which may be passed as heretofore provided, and which shall take effect upon passage, and be so published on the following day.

52. Amendment or Repeal.—No ordinance or section thereof shall be amended or repealed except by an ordinance regularly adopted.

53. Ordinances Granting Franchises.—No proposed ordinance granting any franchise shall be put upon its final passage within sixty days after its introduction, nor until it has been published not less than once a week for six consecutive weeks in two daily newspapers of the city in general circulation.

54. Record of Ordinances.—A true copy of every ordinance when adopted shall be numbered and recorded in a book marked "Ordinance Record," and a certificate of adoption and publication shall be authenticated by the certificate of the publisher and by the signatures of the mayor and clerk. The ordinances adopted by the vote of the qualified electors of the city shall be separately numbered and recorded, commencing with "People's Ordinance, No. 1."

55. Proof of Charter and Ordinances.—This charter or any ordinance may be proved by a copy thereof, certified to by the city clerk under seal of the city; or when printed in book or pamphlet form, and purporting to be printed by authority of the city, the same shall be received in evidence in all Courts without further proof.

ARTICLE VII.

EXECUTIVE AND ADMINISTRATIVE DEPARTMENTS.

56. Five Departments.—The executive and administrative powers, authority and duties of the city, not otherwise herein provided for, shall be distributed among five departments as follows:

- I. Public Affairs.
- II. Finance and Supplies.
- III. Highways.
- IV. Health and Civic Beauty.
- V. Water and Sewers.

57. Public Affairs.—The Commissioner of Public Affairs shall be ex officio mayor, and the chief executive officer of the city. He shall, unless otherwise provided by ordinance, be the judge of the municipal court of the city; he shall be the head of the police and fire departments, and shall supervise all public utilities not owned and managed directly by the city; he shall have charge of any building, electric wiring, lighting and heating inspection, and shall have general supervision of all public affairs not otherwise provided for.

58. Finance and Supplies.—The Commissioner of Finance and Supplies shall be ex officio city treasurer, and shall be the purchasing agent of all supplies for all departments of the city. He shall also be the city collector, and as such, it shall be his duty to collect all water rents, license fees, money of the city in the hands of the county treasurer, or other moneys due the city.

59. Highways.—The Commissioner of Highways shall be the street commissioner, and shall have supervision of all streets, alleys, avenues, sidewalks, ditches and the water flowing therethrough, public improvements, street paving, sidewalk construction, gutters, curbing, public buildings, real and personal property owned, leased by, or controlled by the city, and not in charge of any other department.

60. Health and Civic Beauty.—The Commissioner of Health and Civic Beauty shall be ex officio city clerk, and as such, keep all the records of the city council and perform all other duties required of such clerk. He shall be ex officio city auditor, and shall audit all bills payable by the city prior to their being allowed by the city council. He shall be the health and sanitary commissioner, see that all health ordinances are enforced, and shall also have supervision of the plumbing inspection, and the inspection of foods and milk offered for sale in the city. He shall also be the inspector of weights and measures.

He shall be the commissioner of Civic Beauty, shall have general supervision of all parks, parking, and shade trees of the city, and shall have full power to manage, improve, maintain, and beautify the same; he shall supervise the architectural beauty of the city and make recommendations as to the suitable color, style and character of buildings, pavings, side-

walks, and other improvements as to him may seem advisable, to the end of improving the city's appearance and beauty.

61. Water and Sewers.—The Commissioner of Water and Sewers shall be ex officio water commissioner, and shall take direct and active charge of the city's entire water and sewer system, both within and without the city, supervise and keep the same in good working order. He shall take charge of all construction work for the water system, shall be the inspector of all water pipes, fixtures, fountains, fire plugs, connections, and all other water apparatus through which the city water may flow, see that the same is kept in good repair, and shall also have charge of all sewers and see that they are kept in good repair and properly flushed.

62. Other Powers and Duties.—Said commissioners shall have such other rights, powers, and duties as may be provided by ordinance, not in conflict with the provisions of this Charter.

63. Office Hours.—It shall be the duty of each commissioner to maintain regular office hours at the city hall, and he shall give his whole time and attention to, and engage in the actual work of the city affairs during business hours. At all times when not engaged in office work, he shall take the active management and control as foreman and director of the affairs of his department, and shall be responsible for the full and complete discharge thereof.

64. Hours and Wages.—Eight hours shall constitute a day's work in all city employment, and the minimum rate of wages shall be two dollars and fifty cents per day for all day laborers, unless otherwise determined by the city council; provided, however, that this section shall not apply to any work in paving the streets of the city or in building an extension of the city waterworks or sewer system.

65. Department Employees.—Each department shall be entitled to such salaried employes as may be authorized by ordinance. The head of each department shall nominate all such employes therein but their appointments shall be made by the city council. Each commissioner shall have the power of selecting and employing the day laborers necessary for his department. Any and all employes in any department shall be subject to discharge by the commissioner at the head of that department at any time, except as otherwise provided by this Charter. The city council shall determine the number of such employes in any department and shall also have like power of discharging them, or any of them, or may require any employe in any department to perform duties in two or more departments, or may make such rules and regulations as they shall deem necessary or proper for the efficient and economical conduct of the business of the city. The salary or wages of any employe of the city shall cease immediately upon his discharge from such employment.

66. Publicity Records and Reports.—Each of said commissioners shall keep a record book in which shall be recorded a brief but comprehensive

record of all department affairs under his charge as soon as performed and shall quarterly render to the city council a full report of all operations of such department, and shall annually, and oftener if required by the city council, make a synopsis thereof for publication. All such records shall be kept open for public inspection. The council shall provide for the publication of such annual or other reports, and of such portion of the quarterly reports, as to it may seem advisable. Each commissioner shall also make and keep a complete inventory and permanent record of all the personal property of his department and what disposition, if any, has been made of the same.

67. Newspaper and Publication Fees.—All election notices, or list of candidates for office, department reports, ordinances, charters, or charter amendments, advertising, publicity affairs, or other publications required or authorized by this Charter, by general law, or by any ordinance of the city to be made in any newspaper and all such publications for which the city of Grand Junction may be liable, shall be paid for by the city at such rates as shall not, in any event, exceed the ordinary and regular advertising rates charged other advertisers; and all printing of books, pamphlets, bills, letterheads, or other documents or printed matter required by the city shall be paid for at a price not exceeding the usual business rates therefor. No bill shall be rendered to, or paid by the city for such advertising or printing in excess of the said usual business rates, even though higher rates may be fixed by general law for other cities of the State.

ARTICLE VIII.

DEPARTMENT OF PUBLIC AFFAIRS.

68. Police and Fire Departments.—The council shall, by ordinance, provide for the establishment and maintenance of a police department and of a fire department, consisting of such employees as it may deem necessary.

69. Commissioner to Have Supervision.—The Commissioner of Public Affairs shall have supervision and control of the police and fire departments except as otherwise provided in this Charter or by ordinance.

MUNICIPAL COURT.

70. Judge and Jurisdiction.—The Judge of the Municipal Court of the city shall have all the jurisdiction, powers, duties, and limitations of a police magistrate as provided in Sections 4931 to 4945, inclusive, of the Revised Statutes of Colorado, 1908, except as otherwise provided by this Charter. The mayor of the city shall be the judge of such Municipal Court unless otherwise provided by ordinance, and shall have exclusive original jurisdiction to hear, try, and determine all charges of misdemeanor as declared by this charter, and all causes arising under this charter or any of the ordinances of the city for a violation thereof. There

shall be no trial by jury, and there shall be no change of venue from said Court.

ARTICLE IX.

DEPARTMENT OF FINANCE AND SUPPLIES.

71. Fiscal Year Same as Calendar Year.—The fiscal year of the city shall commence on the first day of January and end on the last day of December of each year.

72. Public Moneys.—The Commissioner of Finance and Supplies shall, under the power and control of the city council, have the direct management of the revenues of the city except as otherwise provided by this charter, or by ordinance. He shall be ex officio city treasurer, with the usual duties and powers of that office.

The cash balances of the city in the hands of the city treasurer for deposit in the banks, shall be kept on deposit in each of the banks of the city without discrimination, in proportion to their capital stock as far as possible. Nothing herein shall prevent said treasurer from temporarily having such funds otherwise deposited, provided, that as soon as practicable, he shall re-deposit such deposits. Before making such deposits, however, said treasurer shall require a good and sufficient surety bond from each bank to receive such deposit.

No demand for money against the city shall be approved, allowed, audited or paid unless it shall be in writing, dated, and sufficiently itemized to identify the expenditure and shall first be audited by the Commissioner at the head of the department creating the same.

The council shall, by ordinance, provide a system for the collection, custody, and disbursement of all public moneys, and a system of accounting for the city, establishing as nearly as may be, a uniform system of municipal accounting, such system to be in accord with the provisions of this charter.

73. Duties of Purchasing Agent.—The Commissioner of Finance and Supplies shall procure all supplies ordered by the city council in such manner as it may direct. He shall also procure supplies for any commissioner upon requisition therefor. Such requisition shall be in writing, shall state the quality, quantity, and kind of material required, whether urgency demands that the order be made by wire, whether the supplies should come by express or otherwise, and the probable cost thereof, in detail, if known. In case of emergency, where the estimated cost exceeds Two Hundred (\$200) Dollars, such requisition shall have the indorsement of one other commissioner. If no emergency exists, a requisition for supplies, the estimated cost of which is above One Hundred (\$100.00) Dollars, shall first be approved by the council. Whenever he considers it practical and advantageous, the purchasing agent shall advertise for competitive proposals for any supplies in a public newspaper, or by circular letters, or other means, sent to several competitive dealers. All such

requisitions, correspondence, and competitive bids received shall be kept on file in the office of the Commissioner of Supplies.

74. Special Revenues Limited.—No occupation or license tax shall be assessed, levied, or collected against any merchant or manufacturer for the sale or manufacture of goods, wares or merchandise, who pays an annual tax thereon under the revenue laws of the State; nor against persons who sell commodities manufactured or raised by themselves in this State; nor against any person selling fruits and vegetables. No poll tax shall ever be levied or collected by the city for any purpose whatsoever.

75. Adoption of Existing Law.—Until the council shall otherwise by ordinance provide, the statutes of the State of Colorado now or hereafter in force, shall govern the making of assessments by the Assessor of the County in which the city is situated, the making of equalization by the Board of County Commissioners of said County, and the collection of taxes by the Treasurer of said County for and on behalf of the city, and also the certification and collection of all delinquent charges, assessments or taxes.

76. Certificate of Assessment.—It shall be the duty of the Commissioner of Finance and Supplies to procure, as soon as available each year, a certificate from the County Assessor of the total amount of property assessed for taxation within the limits of the city, as shown by the assessment roll in the Assessor's office.

77. Department Estimates of Annual Requirements.—On or before the first Monday in October each year, or on such date as shall be fixed by the council, the heads of the departments, offices, boards, and commissions, shall send to the Commissioner of Finance and Supplies, a careful estimate in writing of the amounts, specifying in detail the objects thereof, required for the business and proper conduct of their respective departments, offices, boards and commissions during the next ensuing fiscal year.

78. Annual General City Estimate.—On or before the third Monday in October each year, or on such date as shall be fixed by the council, the Commissioner of Finance and Supplies shall submit to the council an estimate of the probable expenditure of the city government for the next ensuing fiscal year, stating the amount required to meet the interest and maturing bonds of the outstanding indebtedness of the city, and the warrants of all the departments of the municipal government in detail, and showing specifically the amount necessary to be provided for each fund and department; also an estimate of the amount of income from fines, licenses, water rents, and all other sources of revenue, exclusive of taxes upon property, and the probable amount required to be levied and raised by taxation to defray all expenses and liabilities of the city.

79. Annual Budget.—The council shall meet annually, prior to fixing the tax levy, and make a budget of the estimated amounts required to pay the expenses of conducting the business of the city government for the

next ensuing fiscal year. The budget shall be prepared in such detail as to the aggregate sum and the items thereof allowed to each department, office, board or commission as the council may deem advisable.

80. Annual Appropriation.—Upon said budget as adopted and filed, the council shall pass an ordinance, not later than the thirty-first day of December, in each year, which shall be entitled "The Annual Appropriation Ordinance", in which it shall appropriate such sums of money as it may deem necessary to defray all expenses and liabilities of the city, and in such ordinance shall specify the objects and purposes for which such appropriations are made, and the amount appropriated for each object and purpose therein named for the ensuing fiscal year.

81. Levy.—Such ordinance shall include the proper levy in mills upon each dollar of the assessed valuation of all taxable property within the city, such levy representing the amount of taxes for city purposes necessary to provide for payment during the ensuing fiscal year of all properly authorized demands upon the treasurer, and the council shall thereupon cause the total levy to be certified by the city clerk to the County Assessor, who shall extend the same upon the tax list of the current year in a separate column entitled: "**THE CITY OF GRAND JUNCTION TAXES**", and shall include said city taxes in his general warrant to the County vided, then the rate last fixed shall be the rate fixed for the ensuing fiscal year.

The amount required to make payment of any interest, or principal of bonded indebtedness, shall always be included in and met by tax levy except as otherwise provided in this charter.

Treasurer for collection, as provided by law.

If the council fails in any year to make said tax levy as above pro-

82. No Liability Without Appropriation.—Except as herein otherwise specially provided, the city expenditures in any one year shall not be increased over and above the amount provided in the annual appropriation ordinance for that year, and no contract involving the expenditure, and no expenditure for any improvement to be paid out of the general or special funds of the city or for defraying the expenses and liabilities of the city shall exceed, in any one year, the amount provided in the annual appropriation ordinance to be paid out of the said general and special funds so appropriated and set apart, but the said several funds shall be maintained for, used and devoted to the particular purposes specified in the annual appropriation ordinance.

It shall not be lawful for any department or officer of the city to incur or contract any expense or liability for or on behalf of the city unless such an appropriation shall have been made concerning such expense. Such contract shall be ab initio null and void as to the city for any other or further liability: provided, first, that nothing herein contained shall prevent the council from providing by ordinance for payment of any expense, the necessity of which is caused by any casualty, accident or unforeseen contingency arising after the passage of the annual appropria-

tion ordinance; and, second, that the provisions of this section shall not apply to or limit the authority conferred in relation to bonded indebtedness, nor for moneys to be collected by special assessments for local improvements.

83. Special Appropriations for 1909 and 1910.—The council shall during the year 1909, pass such special appropriation ordinances as may be necessary to pay the salaries and defray the expenses of any and all departments, officers and employes of the city for the years 1909 and 1910, but not thereafter; and the warrants for the payment of such salaries and expenses after being duly allowed and audited, may be drawn against such appropriation, and the amount so required for the payment of such warrants, or so much thereof as may be necessary, shall be payable out of any available moneys not otherwise appropriated, or failing such moneys, the warrants shall be registered and payable out of the revenue for the next ensuing fiscal year, which shall be sufficient to pay the same.

84. Collection of Taxes.—Until the council shall otherwise by ordinance provide, the county treasurer shall collect city taxes in the same manner and at the same time as State taxes are collected, and all laws of this State for the assessment of property and the levy and collection of general taxes, including laws for the sale of property for taxes, and the redemption of the same, shall apply and have as full effect in respect of taxes for the city as of such general taxes, except as modified by this charter.

On or before the fifth day of every month, the county treasurer shall report and pay to the city treasurer the amount of tax collections of the city for the preceding month.

85. City Indebtedness.—The indebtedness of the city shall be incurred and limited as provided in Article XI of the constitution of the State of Colorado.

86. Special Statutes Continued in Force.—The provisions of Sections 6657 and 6658 of the Revised Statutes of Colorado, 1908, relating to sidewalks, and of Sections 6687 to 6694 thereof inclusive, relating to refunding bonds, are hereby made and declared to be in full force and effect in the city until otherwise provided by ordinance.

ARTICLE X.

DEPARTMENT OF HIGHWAYS.

87. No Paying Contracts.—Whenever any streets, avenues, or alleys are to be paved by the city, such work shall be done by the Commissioner of Highways, who shall procure the material through the Commissioner of Supplies, and shall employ the necessary labor. In no event shall such work be let out on contract.

ARTICLE XI.

DEPARTMENT OF HEALTH AND CIVIC BEAUTY.

88. Assistants and Employees. The city council shall appoint a health

officer, and may appoint a plumbing inspector, and all such assistants and employes as are necessary to the efficient administration of this department.

89. Qualifications of Health Officer.—The health officer shall be a graduate of a reputable medical college, and shall have practiced medicine and been a resident of this city for at least two years next preceding his appointment. He shall be licensed to practice medicine in this State; and shall have his license recorded with the County Clerk and Recorder of Mesa County in accordance with the laws of the State regulating the practice of medicine. Such health officer shall devote such time as is necessary to the duties of his office.

90. Power of Arrest.—The Commissioner of Health and Civic Beauty, and all salaried employes of the department of health, shall have the right and power to arrest any person or persons who may violate any of the rules or regulations of the department.

91. Qualification of Employes.—The plumbing inspector and other employes shall be persons properly skilled and qualified for the efficient and capable performance of their respective duties.

92. Regulations.—The council shall make all ordinances and regulations which may be necessary or expedient for the preservation of the public health and the suppression of disease.

ARTICLE XII.

DEPARTMENT OF WATER AND SEWERS.

93. Department an Entity.—The Department of Water and Sewers shall embrace all property rights and obligations of the city in respect to water, water works, and sewers, and shall, as far as practicable, be administered as an entity. All contracts, records, and muniments of title pertaining thereto shall be assembled and carefully preserved, and accounts shall be kept of its assets, liabilities, receipts, and disbursements, separate and distinct from the accounts of any other department.

94. Commissioner Administer Department.—The Commissioner of Water and Sewers is charged with the administration of said department, and with the supply of water to consumers. He shall appoint all such officers, assistants, and skilled employes as may be necessary, and may secure the services or advice of hydraulic engineers, special counsel, and other experts for such compensation as may be approved by the council. He shall preserve the water supply of the city from impairment and pollution, and secure at all times a supply of potable water adequate for the growing needs of the city. He shall cause comparative investigation to be made of all available reservoir sites, springs, and sources of such water supply, and report thereon to the council with his recommendations. He shall prepare and submit to the council measures for the storage and

augmenting of the water supply, and cause adequate water measurements and tests to be made and the record thereof preserved.

95. Duties of Commissioner.—He shall keep such books of account as are required by Article XIV of this charter, make an annual full detailed report of all the assets and liabilities, receipts and expenditures of his department, including cost of maintenance, extension, and improvements; and he shall annually estimate the difference in cost between municipal and private ownership of city water works. He shall take charge of all construction work of the water and sewer systems, and keep the said systems in good repair and working order at all times. He shall not let the work for any extension or new construction on contract, but the same shall be done directly by the city, procuring the necessary labor and material. The character of any extensions to be undertaken and the extent thereof shall be determined by the city council.

96. Rates—Regulations—Fines.—The city council shall by ordinance fix rates, establish regulations for the use of water by consumers, provide for the orderly administration of the department, and impose fines and penalties for the violation thereof. Such ordinance shall establish a uniform system of rates for the use of water by consumers, from which rates there shall be no rebates or reductions, it being the intent hereof to prevent any consumers of water from having any advantage or favor over other consumers, by contract or otherwise, except as herein provided.

Whenever the revenue from the water works system shall produce a surplus over and above the cost of maintenance, and interest on the cost of construction, it shall be the duty of the city council to reduce the rates to consumers so that, as far as practicable, the people may receive the benefits of this department at not more than actual cost.

All consumers of water living outside of the city limits shall pay not less than double the rates so established and fixed for users within the city limits.

ARTICLE XIII.

OFFICERS AND EMPLOYEES.

97. Officers—Employees.—The elective officers shall be the only officers of the city. All other persons in the service of the city, or any commission, or board thereof, are hereby declared to be employees, and subject to removal by the council at any time, at its pleasure, and without cause except as otherwise provided by this charter. The powers, duties, and compensation of all salaried employees shall be fixed by ordinance.

98. City Attorney.—The city attorney shall be appointed by the council, and shall be the legal adviser of the mayor, council, commissioners, and departments, and shall conduct all cases in court wherein the city shall be a party, plaintiff or defendant, or a party in interest; and shall perform such other duties as are required by ordinance.

99. Oath of Office.—Every officer or salaried employee shall, before he enters upon the duties of his office, take, subscribe, and file with the clerk

an oath or affirmation to support the constitution of the United States, the constitution of the State of Colorado, and the charter and ordinances of the city of Grand Junction, and faithfully to perform the duties of the position upon which he is about to enter.

100. Bonds.—Any officer or employe required to give bond, shall not be qualified for his office or employment until such bond has been duly approved, by the council, and filed with the clerk who shall have custody thereof.

101. No Extra Compensation.—No officer or employe shall solicit or receive any pay, commission, money, or thing of value, or derive any benefit, profit or advantage, directly or indirectly, from or by reason of any dealings with, or service for the city, by himself or by others, or from or by reason of any improvements, alterations, or repairs required by authority of the city except his lawful compensation or salary as such officer or employe. No officer or salaried employe of the city shall, except as otherwise provided by this charter, accept, directly or indirectly, from any railroad, telegraph, or telephone company, or from any owner of any public utility franchise in the city, any pass, frank, free ticket, free service or other service upon terms more favorable than those granted to the public generally. Any violation of this section shall be a misdemeanor.

102. Opinions Not Affect Appointments.—No appointment to any position under the city government shall be made or withheld by reason of any religious or political opinions, or affiliations, or political service; and no appointment or election to, or removal from, any office or employment, and no transfer, promotion, reduction, reward or punishment shall be in any manner affected or made by reason of such opinions, affiliations, or service.

103. Official Books and Documents.—(a) All books, records, and papers of each office, department, board or commissioner, are city property and must be kept as such by the proper official or employe during his continuance in office, and delivered to his successor, who shall give duplicate receipts therefor, one of which shall be filed with the city clerk. The failure to so deliver such books, records, and papers, shall be a misdemeanor.

(b) Certified copies or extracts from the books, records, and files shall be given by the officer, board, commission or employe having the same in custody to any person demanding the same, and paying for such copy, or extract; but the records of the police department shall not be subject to inspection or copy without the permission of the mayor.

(c) All equipment, collections, models, materials, construction tools and implements, which are collected, maintained, used, or kept by the city, or by any department, board or commission, shall be city property, and be turned over by the custodian thereof to his successor, or duly accounted for.

104. Payment of Debts.—Failure of any employe to promptly pay any legal indebtedness contracted by him while in the service of the city shall be ground for his removal from such employment.

ARTICLE XIV.

FRANCHISES AND PUBLIC UTILITIES.

105. Franchise Granted Upon Vote.—No franchise relating to any street, alley, or public place of the said city shall be granted except upon the vote of the qualified taxpaying electors, and the question of its being granted shall be submitted to such vote upon deposit with the treasurer of the expense (to be determined by said treasurer) of such submission by the applicant for said franchise, and no such franchise shall be granted unless a majority of such electors voting thereon vote in favor thereof.

106. Contracts for Service.—All contracts for service between the city and the owner or manager of any such franchise, shall be made by ordinance, the terms of which shall be agreed to in writing by said owner or manager prior to the passage of such ordinance. No contract for service shall be made by the city for a longer period than two years unless such contract be submitted to a vote of the qualified electors of the city, and approved by a majority of those voting on said question.

107. Franchise Specify Streets.—All franchises or privileges hereafter granted for laying tracks or pipes, or supplying heat, light, or power, shall plainly specify on what particular streets, alleys, avenues, or other public property, the same shall apply; and any other franchise shall state the bounds of the district or districts in which it shall be exercised; and no franchise or privilege shall hereafter be granted by the city in general terms or to apply to the city generally.

108. Power to Regulate Rates and Fares.—All power to regulate the rates, fares, rentals and charges for service by public utility corporations is hereby reserved to the people to be exercised by them by ordinance of the council, or in the manner herein provided for initiating or referring an ordinance. Any right of regulation shall further include the right to require uniform, convenient, and adequate service to the public and reasonable extensions of such service and of such public utility works. The granting of a franchise shall not be deemed to confer any right to include in the charge for service any return upon the value of the franchise or grant itself.

109. Ordinance in Plain Terms.—No franchise, right, privilege, or license shall be considered as granted by any ordinance except when granted therein in plain and unambiguous terms, and any and every ambiguity therein shall be construed in favor of the city and against the claimant under said ordinance.

110. Issuance of Stock.—Every ordinance granting any franchise shall prohibit the issuing of any stock on account thereof by any corporation holding or doing business thereunder.

111. License Tax.—The city shall have the right to license or tax street cars, telephones, gas meters, electric meters, **water meters, or**

any other similar device for measuring service; also telephone, telegraph, electric light, and power poles, subways and wires. The said license or tax shall be exclusive of and in addition to all other lawful taxes upon the property of the holder thereof.

112. Special Privileges on Street Railroad.—The grant of every franchise for a street, suburban, or interurban railroad shall provide that all United States mail carriers and all policemen and firemen of the city in uniform, and all elective officers, shall at all times, while in the actual discharge of their duties, be allowed to ride on the cars of such railroad within the boundaries of the city without paying therefor, and with all the rights of other passengers.

113. Railroad Elevate or Lower Tracks.—The council shall, by ordinance, require under proper penalties, any railroad company, whether steam or electric, to elevate or lower any of its tracks running over, along, or across any of the streets or alleys of the city, whenever in the opinion of the council the public safety or convenience requires.

114. Street Sprinkling, Cleaning and Paving.—Every grant of any franchise or privilege in, over, under or along any of the streets, highways or public places in the city for railway purposes, shall be subject to the conditions that the person, firm or corporation exercising or enjoying the same shall, unless otherwise provided by ordinance, sprinkle, clean, keep in repair, and pave and repave so much of said street, highway or other public place as may be occupied by said railway as lies between the rails of each railway track, and between the lines of double track, and for a space of two feet outside of said track.

115. Franchise Provide for Safety, Etc.—The grant of every franchise or privilege shall be subject to the right of the city, whether in terms reserved or not, to make any regulations for the safety, welfare, and accommodation of the public, including among other things, the right to require proper and adequate extensions of the service of such grant, the right to require any or all wires, cables, conduits, and other like appliances, to be placed under ground, and the right to protect the public from danger or inconvenience in the operation of any work or business authorized by the grant of the franchise.

116. Oversight of Water Reserved to City.—Every franchise, right or privilege which has been, or which may hereafter be granted, conveying any right, permission or privilege to the use of the water belonging to the city, or to its water system, shall always be subject to the most comprehensive oversight, management, and control in every particular by the city; and such control is retained by the city in order that nothing shall ever be done by any grantee or assignee of any such franchise, right or privilege which shall in any way interfere with the successful operation of the water works of the city, or which shall divert, impair, or render the same inadequate for the complete performance of the trust for the people under which such water works are held by the city, or which shall tend so to do.

117. No Exclusive Franchise—Renewal.—No exclusive franchise shall ever be granted, and no franchise shall be renewed before one year prior to its expiration.

118. No Franchise Leased Except.—No franchise granted by the city shall ever be leased, assigned, or otherwise alienated without the express consent of the city, and no dealing with the lessee or assignee on the part of the city to require the performance of any act or payment of any compensation by the lessee or assignee, shall be deemed to operate as such consent. Any assignment or sale of such franchise to any foreign corporation, shall operate as a forfeiture to the city of such franchise.

119. Amendment, Renewal, Extension or Enlargement of Franchise.—No amendment, renewal, extension, or enlargement of any franchise, or grant of rights or powers previously or heretofore granted to any corporation, person, or association of persons, shall be made except in the manner and subject to all the conditions provided in this article for the making of original grants and franchises. The city shall require as a condition of any amendment, alteration, or enlargement of a franchise or grant, unless otherwise expressly determined by a majority vote of the qualified electors of the city, that the person, association, or corporation owning the original franchise or grant, shall, as a prior condition to, and in consideration for such amendment, alteration, or enlargement, covenant and agree, as a part thereof, that such original franchise shall be brought within all the conditions provided in this article for the exercise and enjoyment of franchises hereafter granted, including the right of the city to purchase the plant and physical property, whether within or without the city limits, or both, at a fair valuation, which valuation shall not include any franchise value, or any earning power of such property.

120. Provision for Common Use of Tracks, Poles, Etc.—The city may, by ordinance, require any person or corporation holding a franchise from the city for any public utility, to allow the use of any of its poles, tracks, wires, conduits, or electric current by any other person or corporation to which the city shall grant a franchise, upon the payment of a reasonable rental therefor; and any franchise or right which may hereafter be granted to any person or corporation to operate a street railway, or other public service, within the city or its suburbs, shall be subject to the condition that the city shall have the right to grant to any other person or corporation desiring to build or operate a street railway, interurban railway, or other public service, within or into the city, the right to operate its cars over the tracks of said street railway, or to utilize its poles, wires, conduits, or electric current, in so far as may be necessary to enter the city and to reach any section thereof; provided, that the person or corporation desiring to operate its cars over the lines of said street railway, or to use such other public service, shall first agree in writing with the owner thereof to pay it a reasonable compensation for such operation or use. And if the person or corporation desiring to use the same cannot agree with said owner as to said compensation, within sixty days from

offering in writing so to do, and as to terms and conditions for such use, then the council shall, by resolution, after a fair hearing to the parties concerned, fix the terms and conditions of such use and compensation to be paid therefor, which award of the council when so made, shall be final and binding on the parties concerned.

121. City Maintain General Supervision—Reports—Inspection.—The city shall maintain general supervision and police control over all public utility companies in so far as they are subject to municipal control. It shall cause to be instituted such actions or proceedings as may be necessary to prosecute public utility companies for violations of law.

It shall require every person or corporation operating under a franchise or grant from the city, to submit to the council within sixty days after the first day of January of each year, an annual report verified by the oath of the president, the treasurer, or the general manager thereof.

Such reports shall be in the form, contain such detailed information, and cover the period prescribed by the council, or by ordinance; and the council shall have the power, either through its members or by experts or employes duly authorized by it, to examine the books and affairs of any such person, persons or corporation, and to compel the production before them of books and papers pertaining to such report or other matters.

Any such person, persons, or corporation which shall fail to make any such report, shall be liable to a penalty of one hundred dollars and an additional penalty of one hundred dollars for each and every day thereafter, during which he shall fail to file such report, to be sued for and recovered in any court of record having jurisdiction.

The mayor shall, either personally or through the city's inspectors or employes duly authorized by the council, enter into or upon and inspect the buildings, plants, power houses, and all properties of any such person, persons, or corporation, and shall inspect the same at least once a year, and shall immediately thereafter report to the council a detailed and complete statement of such inspection.

122. Books of Record and Reference.—The mayor shall provide and cause to be kept in his office the following books of record and reference:

First.—A franchise record, indexed, and of proper form in which shall be transcribed accurate and correct copies of all franchises or grants by the city to any person, persons, or corporation owning or operating any public utility. The index of said record shall give the name of the grantee and thereafter the name of any assignee thereof. Said record shall be a complete history of all franchises granted by the city and shall include a comprehensive and convenient reference to actions, contests, or proceedings at law, if any, affecting the same.

Second.—A public utility record, of every person, persons, or corporation owning or operating any public utility under any franchise granted by the city, into which shall be transcribed accurate and correct copies of each and every franchise granted by the city to said person, persons, or corporation, or which may be controlled or acquired by them or it, together with copies of all annual reports and inspection reports, as herein

provided, and such other matters of information and public interest as the mayor may, from time to time, acquire. In case annual reports are not filed and inspections are not made, as provided, the mayor shall record such fact in the public utility record, and in writing, report the same to the council. All such annual reports, or a synopsis thereof, shall be published once in two daily newspapers of general circulation, published in the city, or printed and distributed in pamphlet form, as the council may determine.

The provisions of this section shall apply to all persons or corporations operating under any franchise now in force or hereafter granted by the city.

123. Books of Account—Examination.—The city, when owning any public utility, shall keep the books of accounts for such public utility distinct from other city accounts, and in such a manner as to show the true and complete financial result of such city ownership, or ownership and operation, as the case may be. Such accounts shall be so kept as to show the actual cost to the city of the public utility owned; all cost of maintenance, extension and improvement, all operating expenses of every description, in case of such city operation; if water or other service shall be furnished for the use of any department of the city without charge, the accounts shall show, as nearly as possible, the value of such service; such accounts shall also show reasonable allowance for interest, depreciation, and insurance, and also estimates of the amount of taxes that would be chargeable against such property if owned by a private corporation. The council shall cause to be printed annually for distribution, a report showing the financial results, in form as aforesaid, of such city ownership, or ownership and operation. The accounts of such public utility, kept as aforesaid, shall be examined at least once a year by an expert accountant, who shall report to the council the result of his examination. Such expert accountant shall be selected in such manner as the council may direct, and he shall receive for his services such compensation, to be paid out of the income or revenues from such public utility, as the council may prescribe.

124. Term Not Longer Than Twenty-Five Years—Compensation.—No franchise, lease or right to use the streets or the public places, or property of the city, shall be granted by the city, except as in this charter provided, for a longer period than twenty-five years. Every grant of a franchise shall fix the amount and manner of the payment of the compensation to be paid by the grantee, for the use of the same, and no other compensation of any kind shall be exacted for such use during the life of the franchise, but this provision shall not exempt the grantee from any lawful taxation upon his or its property, nor from any licenses, charges, or impositions not levied on account of such use.

125. City May Purchase, Operate or Sell—Procedure.—(a) Every grant, extension, or renewal of a franchise or right shall provide that the city may upon the payment therefor of its fair valuation, purchase, and

take over the property and plant of the grantee in whole or in part; such valuation shall be made as provided in the grant, but shall not include any value of the franchise or right of way through the streets, or any earning power of such property. The valuation may include, as part of the cost of the plant, interest on actual investment during the period of construction, and prior to operation. Such grant may provide that if the purchase is made within five years of the time when the franchise is granted, the city shall pay an additional sum or bonus of not to exceed ten per centum (10%) on the actual value of the tangible property, exclusive of the franchise value, which additional sum or bonus shall be reduced proportionately from such five year period to the end of the franchise period when no bonus shall be given.

The procedure to effect such purchase shall be as follows:

When the council shall, by resolution, direct that the mayor shall ascertain whether any such property or part thereof, should be acquired by the city, or in the absence of such action of the council, when a petition subscribed by qualified electors of the city, equal in number to at least ten per centum (10%) of the last preceding vote cast in the city for all candidates for Governor of the State of Colorado, requesting that the mayor shall ascertain whether any such property or part thereof, should be acquired by the city, shall be filed with the clerk, the mayor shall forthwith carefully investigate said property and report to the council—

(1) At what probable cost said property may be acquired;

(2) What, if any, probable additional outlays would be necessary to operate the same;

(3) Whether, if acquired, it could be operated by the city at a profit or advantage in quality or cost of service, stating wherein such profit or advantage consists;

(4) Whether, if acquired, it could be paid for out of its net earnings, and if so, within what time; and

(5) Such other information touching the same as he shall have acquired.

Such report shall be made in writing, shall include a statement of facts in relation thereto with such particularity as will enable the council to judge of the correctness of his findings, and immediately after submission to the council, shall be filed with the city clerk, recorded in the public utility record, and published once in each of two daily newspapers of general circulation published in the city, or printed and distributed in pamphlet form, as the council may determine.

If a petition subscribed by qualified electors of the city, equal in number to at least ten per centum (10%) of the last preceding vote cast in the city for all candidates for Governor of the State of Colorado, requesting that the question whether or not the city shall acquire said property, shall be submitted to a vote of the people, shall within sixty days after the filing of said report be filed with the clerk, the council shall provide by ordinance for the submission of the question to a vote of the qualified electors.

(b) Every grant reserving to the city the right to acquire the plant

as well as the property, if any, of the grantee situated in, on, above, or under the public places of the city, or elsewhere, used in connection therewith, shall in terms specify the method of arriving at the valuation therein provided for, and shall further provide that upon the payment by the city of such valuation, the plant and property so valued, purchased and paid for, shall become the property of the city by virtue of the grant and payment thereunder, and without the execution of any instrument of conveyance; and every such grant shall make adequate provision by way of forfeiture of the grant, or otherwise, for the effectual securing of efficient service and for the continued maintenance of the property in good order and repair and its continuous use throughout the entire term of the grant. The grant may also provide that in case such reserved right to operate or to take over such plant or property is not exercised by the city, and it shall, prior to payment for the same, secure a bid for the property, and grant a new franchise for the same service or utility, as provided in paragraph "c" of this section, or grant the right to another person or corporation to operate said utility, so occupied and used by its grantor, under the former grant, that the title to and possession of the plant and property so taken away be transferred directly to the new grantee upon the terms upon which the city may have purchased it.

(c) Whenever any plant or property shall become the property of the city of Grand Junction, the city shall have the option at any time, then or thereafter, either to operate the same on its own account, or by ordinance to lease the same or any part thereof, together with the franchise or right to use the streets or other public property in connection therewith, for periods not exceeding twenty-five years, under such rules and regulations as it may prescribe, or by ordinance to sell the same; provided, however, that no such ordinance shall be adopted except by a majority vote of the qualified electors of the city.

126. Charter Provisions Not to Impair Right to Insert Other Matters in Franchise.—The enumeration and specification of particular matters in this charter which must be included in every franchise or grant, shall never be construed as impairing the right of the city to insert in such franchise or grant, such other and further conditions, covenants, terms, restrictions, limitations, burdens, taxes, assessments, rates, fares, rentals, charges, control, forfeitures, or any other provision whatever, as the city shall deem proper to protect the interests of the people.

127. Revocable Permits.—The council may grant a permit at any time, in or upon any street, alley, or public place, provided such permit may be revocable by the council at its pleasure at any time, whether such right to revoke be expressly reserved in such permit or not.

ARTICLE XV.

COMMISSIONS AND BOARDS.

Parks.

128. Commission—Statutes Apply.—A park commission shall be ap-

pointed by the city council, to serve without compensation, with the powers, functions and duties established by Sections 6771 to 6788 inclusive, of the Revised Statutes of Colorado, 1908, until otherwise provided by ordinance.

Public Library.

129. Board—Statutes Apply.—The existing board of directors of the Public Library of the city of Grand Junction shall continue with the powers, functions and duties established by Sections 3972 to 3984 inclusive, of the Revised Statutes of Colorado, 1908, until otherwise provided by ordinance.

Public Charities.

130. Board of Charities.—The city council shall establish a commission of public charities and appoint commissioners thereon, to serve without compensation, with such tenures, powers and duties of office as may be fixed by ordinance.

Civil Service.

131. Commission.—There is hereby established a civil service commission consisting of three members who shall serve without compensation, and who shall have such tenures, rights, powers and duties of office as may be prescribed by ordinance not in conflict with this charter. Such commission shall be appointed by the city council prior to January 1, 1913.

132. Classified List.—Such commission shall classify any salaried employes in the five departments of the city as provided by ordinance, for open, non-partisan, competitive, and free examination as to fitness, with limitations as to residence, health, habits and moral character; for an eligible list from which vacancies shall be filled; for a period of probation before employment is made permanent; and for promotion on the basis of merit, experience and record. Such civil service appointees shall only be removed from their employment for cause unless by unanimous vote of the council.

ARTICLE XVI.

DIRECT LEGISLATION BY THE PEOPLE.

133. Direct Legislation.—Any proposed ordinance may be submitted to the council by petition signed by qualified electors of the city, equal in number to the percentage hereinafter required. The procedure in respect of such petition shall be the same as provided in Sections 28 and 29, Article III, of this charter, with such modifications as the nature of the case requires, except that no blank forms shall be furnished or preliminary affidavit made.

134. Ten Per Centum Petition.—If the petition accompanying the proposed ordinance be signed by qualified electors equal in number to at least ten per centum of the last preceding vote cast in the city for all candidates for Governor of the State of Colorado, and contains a request that said proposed ordinance be submitted to a vote of the people, if not passed by the council, the clerk shall thereupon ascertain and certify its

number of qualified signers; whereupon, if such certificate shows the required number of qualified signers, the council shall within twenty days thereafter, either—

(a) Pass said ordinance without alteration, (subject to the referendum vote provided by this article); or

(b) Call a special election unless a general or special municipal election is to be held within ninety days thereafter, and at such general or special municipal election said proposed ordinance shall be submitted without alteration to the vote of the qualified electors of the city.

135. Five Per Centum Petition.—If the petition be signed by qualified electors equal in number to at least five per centum but less than ten per centum of the last preceding vote cast in the city for all candidates for Governor of the State of Colorado, as shown in the manner hereinbefore provided, and said proposed ordinance be not passed without alteration by the council within twenty days, as provided in the preceding section, then such proposed ordinance, without alteration, shall be submitted by the council to electoral vote at the next general municipal election, if any, occurring within forty days thereafter. If filed before forty days, or within twenty days of such election, said petition shall be invalid.

136. Mode of Protest Against Ordinances.—No ordinance passed by the council shall take effect before thirty days after its final passage and final publication, except an emergency ordinance, as provided in Article VI of this charter. If, within said thirty days, a petition signed by qualified electors of the city equal in number to at least ten per centum of the last preceding vote cast in the city for all candidates for Governor of the State of Colorado, be presented to the council, protesting against such ordinance taking effect, the same shall thereupon and thereby be suspended from taking effect, the council shall immediately reconsider such ordinance, and if the same be not entirely repealed, the council shall submit it, by the method provided in this article, to a vote of the qualified electors of the city, either at the next general municipal election, or at a special election, which may, in their discretion, be called by them for that purpose, and such ordinance shall not take effect unless a majority of the qualified electors voting on the same at such election, shall vote in favor thereof.

The procedure in respect of such referendum petition shall be the same as provided in sections 28 and 29 of Article III of this charter, with such modifications as the nature of the case requires, except that no blank forms shall be furnished or preliminary affidavit made.

137. Reference by the Council.—The council may, of its own motion, submit to electoral vote for adoption or rejection at a general or special municipal election, any proposed ordinance or measure, or a proposition for the repeal or amendment of any ordinance, in the same manner and with the same force and effect as provided in this article for submission on petition. If the provisions of two or more proposed ordinances or measures, adopted or approved at the same election, are inconsistent, then

the ordinance or measure receiving the highest affirmative vote shall prevail.

138. Publication of Electoral Ordinance.—Whenever any proposed ordinance is required by this charter to be submitted to the voters of the city at any election, the council shall cause it to be published as required of other proposed ordinances.

139. Election.—The ballots used when voting upon such proposed ordinance shall state the nature of the ordinance in terms sufficient to identify it, and, on separate lines, the words, "For the Ordinance", and "Against the Ordinance." If a majority of the qualified electors voting on said proposed ordinance shall vote in favor thereof, the same shall thereupon become an ordinance of the city.

140. Several Ordinances at One Election.—Provision shall be made on each ballot for voting upon all proposed ordinances submitted at that election.

141. Limit to Special Elections.—There shall not be held under this article more than one special election in any period of six months.

142. Repeal or Amendment.—An ordinance adopted by electoral vote, cannot be repealed or amended except by electoral vote.

143. Regulations.—The council may, by ordinance, make such regulations, not in conflict herewith, as it may deem necessary to carry out the provisions of this article.

ARTICLE XVII.

GENERAL PROVISIONS.

144. Present Form of Government Terminated.—Upon the approval of this charter by a majority of the qualified electors voting thereon, and upon filing two copies thereof officially certified by the city clerk, in the office of the Secretary of State of Colorado, it shall thereupon be in full force and effect, and the present form of government including all existing city wards, shall thereupon cease and terminate. All officers and other persons in the service of the city at that time shall continue to serve as such, receive the compensation therefor now provided by law or by ordinance, have and exercise the powers, authority and jurisdiction theretofore possessed by them respectively, until the elective officers first elected hereunder shall have qualified. Upon such qualification, the term of office of every officer or other person in the service of the city at the time this charter takes effect shall terminate immediately. All persons in the service of the city at the time this charter takes effect (except the mayor, aldermen, police magistrate, city clerk, city treasurer, street commissioner, water commissioner, or any other person whose office ceases by virtue thereof) shall continue to draw compensation at the same rate.

and to exercise like powers, authority and jurisdiction as theretofore, until replaced or until the council shall otherwise provide.

145. Duty of Present Officers as to Elections.—It shall be the duty of the mayor, the city council, and the city clerk in office when this charter takes effect, to comply with all the requirements of Article II of this charter relating to elections, to the end that all things may be done necessary to the nomination and election of the officers first to be elected under this charter.

146. Outgoing Officers.—All officers of the city whose term of office shall be terminated by the first election under this charter, shall deliver and turn over to the officers upon whom their powers and duties devolve, all papers, records, and property of every kind in their possession or custody by virtue of their office, and shall account to them or to any authority designated by the city council, for all funds, credits or property of any kind with which they are properly chargeable, as such officials.

147. Present Ordinances Continue in Force.—All laws, ordinances, resolutions, by-laws, orders, rules or regulations in force in the city of Grand Junction, at the time this charter takes effect, not inconsistent with its provisions, whether enacted by the authority of the city or any other authority, shall continue in full force and effect until otherwise provided by ordinance.

148. Penalty for Violation.—Any person who shall violate any of the provisions of this charter for the violation of which no punishment has been provided herein, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not exceeding one hundred (\$100.00) Dollars, or by imprisonment in the city jail not exceeding three months, or by both such fine and imprisonment.

149. Definition of Misdemeanor.—The term "misdemeanor" as used in this charter, shall mean a violation thereof, or of any ordinance, of which the Municipal Court or magistrate thereof shall have jurisdiction, and shall not have the meaning attached to it in Chapter XXXV entitled "Crimes," Revised Statutes of Colorado, 1908.

150. Continuing Bonds, Etc.—All official bonds, recognizances, obligations, contracts and all other instruments entered into or executed by or to the city before this charter takes effect, and all taxes, fines, penalties, forfeitures incurred or imposed, due or owing the city, shall be enforced or collected, and all writs, prosecutions, actions and causes of action, except as herein otherwise provided, shall continue without abatement and remain unaffected by this charter; and all legal acts done by or in favor of the city, shall be and remain as valid as though this charter had not been adopted.

151. Submission of Charter Amendments.—This charter may be amended at any time in the manner provided by Article XX of the constitution of the State of Colorado. Nothing herein contained shall be con-

strued as preventing the submission to the people of more than one charter amendment or measure at any one election.

152. Reservation of Power.—The power to supersede any law of this state, now or hereafter in force, in so far as it applies to local or municipal affairs, shall be reserved to the city, acting by ordinance.

CERTIFICATE.

WHEREAS, the City of Grand Junction in the County of Mesa, and State of Colorado, a city of the second-class, did, on the 8th day of June, 1909, at a special election under and in accordance with the provisions of Article XX of the constitution of the State of Colorado, elect George R. Barton, James W. Bucklin, Heman R. Bull, William Campbell, Alfred R. Cullen, William E. Dudley, Wendell P. Ela, George W. Fletcher, Ernest M. Gillpatrick, William C. Herrman, Shepard B. Hutchinson, William H. Lee, Charles P. McCary, William J. Moyer, John Murphy, Frank Sawyer, Marcus M. Shores, David T. Stone, Thomas M. Todd, Bostwick W. Vedder and James Woods, as a Charter Convention of twenty-one (21) electors, qualified as required by said Article XX, to prepare and propose a Charter for said City;

BE IT KNOWN, that, in pursuance of said provision of the constitution, and within a period of sixty days after said election, said Charter Convention has prepared, and does propose the foregoing as and for the Charter of said City of Grand Junction, and that in submitting and proposing said Charter to the voters of said city, the Charter Convention, pursuant to said provisions of the constitution, also submits therewith for the choice of the voters, and to be voted on separately without prejudice to the other provisions contained in the Charter, an alternative proposition hereinafter stated. Said alternative proposition shall, if approved by a majority of the voters voting on the question, thereupon take effect, and take the place of Section 35, Article IV of this Charter, and thereupon said Section 35 hereinbefore set forth, shall then, and in that event, be invalid and be eliminated.

Said alternative proposition shall be submitted to the voters for their approval or rejection at the same election at which the Charter shall be submitted. Upon the ballots submitting the adoption of the Charter shall be printed two propositions as follows:

	YES	NO
Shall the Charter be adopted?		
Shall the alternative proposition for three commissioners take the place of Section 35, Article IV for five commissioners?		

Those voting in favor of either or both of said propositions shall put a cross (X) in the first column opposite such propositions under the word "Yes"; those voting against either or both of said propositions, shall put

a cross (X) in the second column opposite such propositions under the word "No".

Said alternative proposition is as follows:

ALTERNATIVE PROPOSITION.

"35. Officers—Terms—Salaries.—The elective officers of the city shall consist of three commissioners; one of whom shall be the Commissioner of Public Affairs, Finance and Supplies, and shall have charge of Departments I and II, and shall be ex officio Mayor; one shall be the Commissioner of Highways, Health and Civic Beauty, and shall have charge of Departments III and IV; and one shall be the Commissioner of Water and Sewers, and shall have charge of Department V; each of whom shall be elected at large by the qualified electors of the city.

The terms of all elective officers shall commence at 10 o'clock A. M. on the first Tuesday following their election, and shall be for two years and until 10 o'clock A. M. of the first Tuesday following the election and qualification of their successors.

The salaries of each of such commissioners shall be One Hundred and Twenty-five (\$125.00) Dollars per month, payable monthly."

IN WITNESS WHEREOF, We, the duly elected and qualified members of the Charter Convention, of the city of Grand Junction, State of Colorado, have hereunto subscribed our names in triplicate, in Convention, at the Council Chamber, in the City Hall, in said city, this sixth day of August, in the year of our Lord, one thousand nine hundred and nine.

JAMES W. BUCKLIN,

President.

BOSTWICK W. VEDDER,

Vice President.

JAMES WOODS,

Secretary.

GEORGE R. BARTON,

HEMAN R. BULL,

WILLIAM CAMPBELL,

ALFRED R. CULLEN,

WILLIAM E. DUDLEY,

WENDELL P. ELA,

GEORGE W. FLETCHER,

ERNEST M. GILPATRICK,

WILLIAM C. HERRMAN,

SHEPARD B. HUTCHINSON,

WILLIAM H. LEE,

CHARLES P. McCARY,

WILLIAM J. MOYER,

JOHN MURPHY,

FRANK SAWYER,

M. M. SHORES,

DAVID T. STONE,

THOMAS M. TODD.

OFFICIAL DATA.

Grand Junction was selected, located, staked, and founded as a Town-site under and by virtue of the laws of the United States, September 26, 1881, by and in the names of George A. Crawford, Richard D. Mobley, M. Rush Warner, James W. Bucklin, and their associates, Allison White and H. E. Rood, who, pursuant thereto, on October 10, 1881, incorporated "The Grand Junction Town Company."

June 22, 1882, a vote was taken to incorporate the municipality by the name of the "Town of Grand Junction," which incorporation was completed July 19, 1882.

February 14, 1883, the town was made the County seat of the new County of Mesa.

April 20, 1891, the town was graded into a city of the second class.

April 6, 1909, Grand Junction became a Charter city by vote, pursuant to the State Constitution, and on June 8, 1909, the 21 Charter delegates were elected who completed and filed the Charter on August 7, 1909.

September 14, 1909, the election to adopt or reject the Charter takes place, and if adopted, the first election thereunder occurs November 2, 1909.

The population of Grand Junction as shown by official census was in round numbers in 1885, 500; in 1890, 2,000; in 1900, 3,600; in 1909 (City Directory), 11,000.

The elevation as fixed by the U. S. Government is 4,587 feet above sea level.

The City comprises all of Section 14; the SE $\frac{1}{4}$ of Section 11; the SE $\frac{1}{4}$ of Section 15; the NW $\frac{1}{4}$ of Section 23; a strip of land 232 feet wide off the west side of the NW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 23, being an extension of 7th street, and the land lying west thereof; and all of the SW $\frac{1}{4}$ of Section 13 except that part of the SE $\frac{1}{4}$ of SW $\frac{1}{4}$ of said Section 13, lying south of the right-of-way of the Rio Grande Junction Railway Company's track and comprising 23.04 acres; all being in T 1 S. R. 1 W. \bar{U} . M., Mesa County, Colorado, and being a little less than two sections of land.

PROPOSED REVISED CHARTER

FOR THE

City *of* Grand Rapids

PREPARED

WITH THE ASSISTANCE OF CITY ATTORNEY

MOSES TAGGART

BY THE

COMMITTEE ON CHARTER AMENDMENTS

ELVIN SWARTHOUT	JOSEPH RENIHAN
HARRY C. WHITE	GEORGE P. TILMA
GEORGE W. THOMPSON	

Which Committee was appointed May 2, 1904 by
MAYOR EDWIN F. SWEET

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MAYOR EDWIN F. SWEET

Report of Committee on Charter Amendments.

To the Hon. Edwin F. Sweet, Mayor, and the Honorable Common Council of the City of Grand Rapids:

Your Committee on Charter Amendments, upon whom, nearly a year ago, was imposed the task of re-writing the City Charter, beg leave to report herewith a draft of "An Act to Revise the Charter of the City of Grand Rapids." We suggest that after your honorable body has made such alteration as may seem advisable, the proposed new Charter be transmitted to the representatives of the city in the State Legislature, for presentation to and adoption by that body.

The method pursued by your committee in formulating this document was as follows: Immediately after the appointment of the committee, communications were sent to the various boards, departments and officers of the city, asking for written suggestions of changes in the Charter which their experience had shown to be needful. The citizens generally, as well as numerous non-official civic organizations, were also invited to offer suggestions. A large number of communications were received in answer to these calls. Thereafter a series of public meetings were held by the committee, at which the various departments of the city government were taken up in order and these recommendations and other suggestions discussed. Probably fifty such meetings have been held. The discussions were uniformly instructive and valuable.

The present City Charter was then reviewed by the committee, title by title. Comparisons were made with the charters of a large number of other cities, which had been kindly furnished us by Mr. D. F. Wilcox. The committee was aided in the work of these sessions by the officers of the city and by committees from the Board of Trade, the Trades and Labor Council, the Civic Club, etc., etc. The various titles were then turned over to City Attorney Moses Taggart, who re-drafted the same. His work was then re-read and passed by the committee. This process was continued until the whole Charter was re-written. A committee of the Grand Rapids Bar Association, of which Ex-Mayor W. J. Stuart was chairman, then read the manuscripts of the leading titles with a view to seeing that there were no legal objections to their form and content.

Thereafter copy was revised for the printer by Mr. Taggart, the Chairman of the committee and the City Clerk, care being taken to see that dupli-

cations were eliminated and the various sections arranged in their proper positions.

It has not been the purpose of the committee to see how many changes in the charter could be made. We have endeavored, wherever possible, to use the verbiage of the city's organic law, which has been approved by time, remembering the wisdom of the Pauline maxim "Hold fast the form of sound words." The city attorney has advised us that many clauses of the Charter have already been construed by the Supreme Court, and that it is best to continue the use of such approved form of words wherever possible.

THE MORE NOTABLE CHANGES.

But the committee has seen fit to make a number of changes not only in the wording of the document, but also in the substance of its provisions. Some of the more notable are :

Making all the Aldermen members of the Board of Supervisors, and doing away with the office of supervisor-at-large. § 10.

A general provision for filling vacancies, and for removal from office. § 18, 19.

An optional referendum on ordinances, or franchise grants, and contracts, involving the expenditure of more than \$10,000. § 57.

A veto in the Board of Police and Fire Commissioners on applications for saloon licenses, bottom p. 19.

Sprinkling of streets from highway fund, § 41.

Changing of the beginning of the fiscal year to April 1. § 67.

Limit of borrowing money for current expenses raised from \$20,000 to \$50,000. § 82.

An entire title devoted to the subject of granting franchises in the streets and defining and limiting the powers of the council in the premises; and the optional referendum on franchises. § 100, et seq.

Regulations concerning municipal control of public utilities. § 113, 121.

The whole subject of keeping municipal accounts and funds has been revised. § 134, 151.

The comptroller is made the bookkeeper for all departments of the city, including the Board of Education; it is made his duty to examine the books of all departments; he can, with the approval of the Council, require all the departments to keep their books in a particular way. The treasurer is made the sole receiving and disbursing officer of the city and its boards, including the Board of Education. (Same Sections.)

The salary of the Mayor is raised from \$1,200 to \$2,000; and that of the comptroller from \$2,000 to \$2,500. § 156.

The cost of paving street intersections to be paid from the general fund; and one-half the expense of second improvements of streets paved after Jan. 1, 1905, to be paid from the same fund. § 167.

Sidewalk, etc., assessments are no longer a personal charge against the owner of the property. § 181. (p. 104 of old Charter.) The treasurer and not the marshal will make collections.

The Mayor is no longer a member of the Board of Public Works, and the term of office of members is made five years. Not more than three members shall be appointed from any one party. § 266.

The secretary may be made general manager of this board if the board so decides. § 271.

Board to maintain permanently improved streets. § 275.

Sealer of Weights transferred to Board of Police and Fire Commissioners, who must detail a policeman for this duty alone. § 310.

The Board of Health and Board of Poor Commissioners have been consolidated. Title X., page 104. The city physician and milk and food inspector are placed under this board. § 343, 344. The secretary of the board may be made superintendent of the poor, if the board so decide, otherwise the health officer will perform the functions of that office. § 347. The limit of the health officer's salary is fixed at \$2,000. § 342; and that of the city physician at \$1,800. § 343.

A new board to be known as the Board of Park and Cemetery Commissioners is provided for. Title XI. p. 112.

The powers of the Board of Sinking Fund Commissioners (which board was created by the Legislature of 1903), are enlarged to cover: (1.) the care of cemetery trust funds, etc. § 373, 374, 376, 400; (2.) the control of fifty per cent. of the gross receipts of the water works, which is turned over to this board for the payment of interest on the water works bonds, and for a sinking fund to pay such bonds. § 399; (3.) the handling of part of the school tax to meet interest and principal of school bonds. § 400.

A Board of Estimates is created, Title XIII, p. 123; and each of the departments of the city government is required to submit its estimates for the ensuing year on or before the first Tuesday in April, and the Board of Education on or before the fourth Monday of August. § 411.

The Board of Education act has been rewritten and made a part of the Charter. Title XIV., page 125. The board is reduced to nine members, elected, three from each of three districts, § 420, at the spring election, § 421. The board may choose a business manager; § 433; the secretary shall not be a member, § 427; all claims go through the comptroller's office and are paid by the city treasurer, § 432.

The Board of Library Commissioners (created two years ago), Title XV, p. 130, is also given control of the Museum and Art Gallery. § 443; the members are to be elected at the spring election, § 445; it can take gifts and bequests, § 451; and is given two-fifths of a mill tax per annum, for the support of the library.

Many of the Miscellaneous provisions found in the old Charter under that head, have been transferred to their proper position in the body of the charter. Temporary transfers from one special fund to another may be made by a five-sixth vote of the Council, § 461; subd. 10.

Notice of the place of injury and the character of the defect must be filed with the clerk within ten days where damages are sought against the city, occasioned by a defect in a sidewalk, etc. The Council or a committee can require claimant to produce his witnesses for examination, § 463.

The committee have incorporated a general provision—prepared by the committee of the Board of Trade—inhibiting city officers, etc., from being interested in any contract with the city, § 476.

The mayor, by and with the approval of two-thirds of the Council, may remove any member of any appointive board, § 477.

The term "pavement" is defined. § 478.

The Justice Court act is made Title XVII., p. 139. The justices may, on motion, set aside judgments and verdicts, § 493; appeals are limited, § 494; the justices may make rules of practice and may punish for contempt, § 497; the clerk may appoint a deputy. § 507.

The chief change in the Police Court act, Title XVIII., 14—relates to the selection of assistant police magistrates. Both justices are made assistants and the Council may "temporarily" elect a police judge in case of vacancy.

The dock line chapter is made Title XIX., and has been rewritten in accordance with the suggestions of the Board of Public Works and recent developments along the river.

The new system of numbering the sections of the Charter consecutively will be noted. An attempt has been made to properly articulate the parts of the Charter. It will be found that the proposed Charter is a decided improvement over the old in the matter of logical arrangement of sections.

The committee does not flatter itself that its work approximates perfection. In fact, none can realize the imperfections of this work more fully than the committee. It submits the results of its labors, however, believing that the proposed Charter is in most respects a decided improvement over the old.

A plan was presented by the Board of Trade committee for selling property upon which city taxes were delinquent under a decree in chancery following the practice in general tax sales. But the proposition was not received until after a considerable portion of the Charter was in type, and the committee was therefore unable to incorporate it in this report.

ELVIN SWARTHOUT,
JOSEPH RENIHAN,
HARRY C. WHITE,
GEORGE P. TILMA,
GEORGE W. THOMPSON,

Committee on Charter Amendments.

MOSES TAGGART, *City Attorney.*

April 17, 1905.

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A Bill to Revise the Charter of the City of Grand Rapids.

TITLE I.

INCORPORATION—CITY AND WARD BOUNDARIES.

GENERAL CORPORATE POWERS.

(Section 1.) Paragraph 1. THE PEOPLE OF THE STATE OF MICHIGAN ENACT, That the municipal corporation known as "The City of Grand Rapids," shall be and continue to be a municipal corporation by the name of "The City of Grand Rapids," and by that name may sue, implead and complain in any court of record, and in any other place whatsoever, but it shall be sued, or complained of only in the Superior Court of Grand Rapids; it may have a common seal and alter such seal at pleasure; it may take, hold, use, occupy, possess, purchase, lease, convey, encumber and dispose of any real, personal or mixed estate for the use or benefit of said municipal corporation as authorized under this act.

DESCRIPTION OF TERRITORY.

(Sec. 2.) Par. 2. The district of country in the County of Kent and State of Michigan hereinafter particularly described, is hereby constituted and declared to be a city by the name of Grand Rapids, and subject to the municipal government of said corporation; said district of said country being bounded as follows, to wit: Beginning at the northwest corner of section eighteen, town seven north, range eleven west; thence east along the north line of said section one mile to the northeast corner thereof; thence south along the east line of said section eighteen, one mile to the southeast corner thereof; thence east along the north line of section twenty, town seven north, range eleven west, one-half mile to the north quarter post of said section twenty; thence south along the north and south quarter line of said section twenty, to the south line of said section; thence east on the line between sections twenty and twenty-nine of said town seven north, range eleven west one-half mile to the northeast corner of said section twenty-nine; thence south two miles along the east line of said section twenty-nine and section thirty-two of town seven north, range eleven west to the south line of said town seven north, range eleven west; thence west along the said south line to the northeast corner of section five, town six north, range eleven west; thence south along the east line of said section five, town six north, range eleven west one mile to the southeast corner of said section; thence

west along the south line of sections five and six of town six north, range eleven west, two miles to the west line of said town six north, range eleven west; thence south along the east line of section twelve, town six north, range twelve west, one mile to the southeast corner of said section twelve; thence west along the south line of sections twelve and eleven, town six north, range twelve west, one and one-half miles to the west line of the east half of section eleven, town six north, range twelve west; thence north along the west line of the east half of said section eleven one mile to the south line of section two, town six north, range twelve west; thence west along the south line of said section two one-half mile to the southwest corner of section two, town six north, range twelve west; thence north along the west line of section two, town six north, range twelve west one mile to the south line of section thirty-five, town seven north, range twelve west; thence west along the south line of sections thirty-five and thirty-four produced, of town seven north, range twelve west forty-five hundredths miles, more or less to the center of Grand River; thence northeasterly along the center of said river to the west line of section thirty-five produced south; thence north on the west line produced south of said section thirty-five and the west lines of sections twenty-six, twenty-three and fourteen of town seven north, range twelve west, to the quarter post of said section fourteen; thence east along the east and west quarter line of said section fourteen one-half mile to the center of said section; thence north along the north and south quarter lines of said section fourteen one-half mile to the north quarter post of said section; thence east along the north boundary of said section fourteen and section thirteen, town seven north, range twelve west, to the northeast corner of said section thirteen; thence north ten and fifty-six one-hundredths feet to the place of beginning; also so much of Grand River as is embraced within the boundaries above described.

PORTIONS OF TOWNSHIPS EMBRACED.

(Sec. 3). Par. 3. So much of the townships of Grand Rapids, Paris, Wyoming and Walker in said county of Kent, as are embraced within the aforesaid boundaries, are hereby set off from said towns and are reorganized into the said City of Grand Rapids.

WARD BOUNDARIES.

(Sec. 4). Par. 4. The said City of Grand Rapids shall be divided into twelve wards, as follows:

First. All that part of said city lying south of the center line of Fulton street extending to the center of Grand River and west of the center line of South Division street and east of the center of Grand River, and north of the center line of Fifth avenue in said city, and of that line extended west to the center of Grand River, shall constitute the First Ward.

Second. All that part of said city lying north of the center line of Fulton street and of said center line of Fulton street extending to the center of Grand River and east of the center of said river and south of the center line of Lyon street and of said line extended to the center of said river and extended east to the city limits, as fixed by this act, shall constitute the Second Ward.

Third. All that part of the city lying south of the center line of Fulton street, and of that line extended east to the city limits as fixed by this act, and east of the center line of South Division street,

and north of the center line of Wealthy avenue, and of that line extended east to said city limits, as fixed by this act, shall constitute the Third Ward.

Fourth. All that part of said city lying north of the center line of Lyon street and of said line extended to the center of Grand River and east to the city limits as fixed by this act, and south of the center line of Fairbanks street and of said line extended to the center of Grand River and easterly to the said city limits, and east of the center of Grand River, shall constitute the Fourth Ward.

Fifth. All that part of said city lying north of the center line of Fairbanks street and of said line extended to the center of Grand river and extended easterly to the city limits as fixed by this act, and lying east of the center of Grand river, and extended north to the north boundary of said city, as fixed by this act, shall constitute the Fifth Ward.

Sixth. All that portion of said city lying west of the center of Grand river and north of the center line of Seventh street, and of said line extended easterly to the center of Grand river, and extended westerly to the city limits, as fixed by this act, and extending north to the city limits, as fixed by this act, shall constitute the Sixth Ward.

Seventh. All that part of said city lying west of the center of Grand river and south of the center line of Seventh street extended easterly to the center of Grand river and westerly to the city limits, as fixed by this act, and north of the center line of West Bridge street and of said last line extended easterly to the center of Grand river and westerly to the city limits, as fixed by this act, shall constitute the Seventh Ward.

Eighth. All that part of the city lying west of the center of Grand River and south of the center line of West Bridge street extended easterly to the center of Grand river and westerly to the city limits, as fixed by this act, and north of the center line of Shawmut avenue extended easterly to the center of Grand River and westerly to the city limits, as fixed by this act, shall constitute the Eighth Ward.

Ninth. All that part of said city lying south of the center line of Shawmut avenue extended easterly to the center of Grand river and westerly to the city limits as fixed by this act, and west of the center of Grand river to the west city limits, as fixed by this act, shall constitute the Ninth Ward.

Tenth. All that part of said city lying south of the center line of Wealthy avenue and of that line extended easterly to the city limits as fixed by this act, and east of the center line of South Division street, and north of the center line of Fifth avenue and of such last named line extended easterly to the city limits, shall constitute the Tenth Ward.

Eleventh. All that part of said city lying south of the center line of Fifth avenue and of that line extended easterly to the city limits, as fixed by this act, and east of the center line of South Division street, and of that line extended south to the city limits as fixed by this act, shall constitute the Eleventh Ward.

Twelfth. All that part of the city lying south of the center line of Fifth avenue and of that line extended westerly to the center of Grand river, and west of the center line of South Division street and of that line extended south to the city limits as fixed by this act, and east of the center of Grand river, shall constitute the Twelfth Ward.

EACH WARD AN ELECTION DISTRICT.

(Sec. 5.) Par. 5. Each Ward shall be an election district by itself, but it shall be lawful for the Common Council during the month next preceding the notice of a general registration to divide the several wards of the city, or any part of them, into convenient election precincts for the purpose of holding general and special elections, and in case any ward or wards shall be divided, the provisions of the general laws of this State and of this act relating to elections other than in towns, shall be applicable, except as herein otherwise provided.

TITLE II.

ELECTION AND APPOINTMENT OF OFFICERS.

OFFICERS OF CITY (AND QUALIFICATIONS REQUIRED OF.)

(Sec. 10.) Par. 1. The officers of said city shall be a Mayor, City Attorney, Treasurer, Comptroller, Clerk and Marshal and two Aldermen from each ward. All of the Aldermen of the city shall be ex-officio full members of the Board of Supervisors of Kent County. No person shall be eligible to any of said offices unless he shall be an elector and resident of said city, nor shall he be eligible to any office for any Ward unless he shall then be an elector and resident of said ward, and when any officers hereinbefore mentioned shall cease to reside in said city or ward, his office shall thereby become vacant; Provided, That it shall not be competent for any city officer to hold two offices at one time, the salary or compensation for which is paid by the city government or any department thereof. But this provision shall not be construed to prevent an Alderman from receiving, compensation for services on the Board of Registration or the Board of Inspectors of election, or compensation for services performed on the Board of Supervisors, or for the duties of a Supervisor performed by him, for which he shall be paid the same as other Supervisors and in the same manner.

ELECTIONS—TIME, PLACE AND NOTICE OF.

(Sec. 11.) Par. 2. An election shall be held in each ward annually on the first Monday in April, at such place, or places, if there be more than one voting precinct in any ward, as the Common Council shall appoint, and a notice thereof published at least five days previous to the election, in two newspapers printed and circulated in said city and by posting printed notices of the holding of said election in at least three of the most public places in each ward or precinct, at least five days previous to said election.

ALDERMEN—TERM OF OFFICE.

(Sec. 12.) Par. 3. There shall be two Aldermen elected in each of the wards of the city by the electors in such wards. Such Aldermen shall be electors of the wards wherein they shall be elected and actual residents thereof; they shall be elected and hold their respective offices for two years from the first Monday in May of the year in which they are elected and until their successors are elected and qualified, and their election shall occur at the annual municipal elections held in the city except as hereinafter provided. All city officers and all Aldermen of the several wards in office at the time of the passage of this act shall hold and continue therein until the expiration of their respective terms of office.

ELECTION OF ALDERMEN AND CONSTABLES.

(Sec. 13.) Par. 4. At the first annual municipal election after the passage of this act, there shall be elected one Alderman in each ward by the electors thereof, to hold their respective office for the term of two years from the first Monday in May after their election and until their successors shall be elected and qualified. At the second annual municipal election after the passage of this act there shall be elected one alderman in each of said wards to hold their respective offices for a period of two years from the first Monday in May after their election and until their successors shall be elected and qualified; and thereafter at each annual municipal election there shall be elected in each of said wards an Alderman for a period of two years and until their successors are elected and qualified. In each ward the Alderman whose term of office shall first expire shall be designated as the senior Alderman of the ward. The senior Alderman shall possess all the powers and be subject to all the duties imposed upon individual Supervisors by this charter or the general statutes of the State of Michigan not otherwise delegated or imposed. At said first annual election and annually thereafter, there shall be elected in each ward one Constable who shall hold his office for the term of one year and until his successor is elected and qualified.

ELECTION OF CITY OFFICIALS, ETC.—WHO ELIGIBLE.

(Sec. 14.) Par. 5. At the first annual election after the passage of this act and every two years thereafter, there shall be elected by the electors of the whole city, one Mayor, one City Attorney, one Clerk of the Superior Court and one Clerk of the Police Court, each of whom shall hold his office for the term of two years from and including the first Monday of May thereafter and until his successor is elected and qualified. At the second annual election after the passage of this act and every two years thereafter, there shall be elected by the electors of the whole city, one Treasurer, one Clerk, one Comptroller, one Marshal and one Clerk of the Justice Courts, each of whom shall hold his office for the term of two years after the first Monday of May thereafter and until his successor is elected and qualified: Provided, That no person shall be elected or appointed to any office created by this act who shall, after June 6, 1901, have become a defaulter to said city or to the State of Michigan or to any county, city or village therein, or who shall use public funds under his control contrary to law, and any person shall be considered a defaulter who shall refuse for sixty days after demand made to account for and pay over to the officer, board or body authorized to receive the same, any public money which has come into his possession.

APPOINTMENT OF MEMBERS OF BOARDS AND BUILDING INSPECTOR.

(Sec. 15.) Par. 6. The Mayor shall, on the first Monday in May after the passage of this act, or within a reasonable time thereafter, and on the first Monday in May of every succeeding year, or within a reasonable time thereafter, appoint all members of the different boards provided for in this act in the manner and for the time hereinafter set forth. He may on the first Monday in May, 1905, or within a reasonable time thereafter, and on the first Monday in May in every second succeeding year, or within a reasonable time thereafter, nominate a Building Inspector, to be confirmed by the Common Council, who shall hold his office for the term of two years and until his successor is appointed and has qualified, whose duties and powers shall be prescribed by the Common Council.

ELECTION OF HIGHWAY COMMISSIONERS.

(Sec. 16.) Par. 7. The Aldermen elect of the Common Council on the first Monday in May after the passage of this act, or within a reasonable time thereafter, and on the first Monday in May in every second succeeding year, or within a reasonable time thereafter, shall elect three Highway Commissioners, whose terms of office shall be two years, and until their successors are elected and qualified, and whose duties and salaries shall be prescribed by the Common Council.

VACANCIES.

(Sec. 17.) Par. 8. Whenever a vacancy shall occur in any appointive office under the provisions of this act, or in any office elective by the Aldermen of the Common Council under such provisions, the same shall be filled in the manner hereinafter provided.

WHEN OFFICES MAY BE DEEMED VACANT, AND HOW FILLED.

(Sec. 18.) Par. 9. An office shall be deemed vacant upon the death or resignation of the incumbent or upon such incumbent ceasing to possess the qualifications of an elector of the ward or city, or upon impeachment or removal from office, or upon the failure of an officer elected to qualify. The office of Mayor, City Attorney, City Treasurer, Comptroller, Clerk and Marshal shall be deemed vacant whenever the incumbent thereof shall be impeached or removed as in this charter provided, or shall be absent from the city for a period of sixty days without leave of the Common Council, or shall not perform the duties of his office for a like period without such leave. The office of Alderman shall be deemed vacant whenever the incumbent thereof shall cease to be a resident of the ward in which he resides, or fails to attend three consecutive regular meetings of the Common Council, unless absent upon leave of the Common Council first obtained, or shall be removed from office; but a change of the boundaries of any ward shall not be deemed a change of residence of any Alderman so as to create or cause any vacancy in such office. A vacancy in any office caused by the failure of any person elected to qualify therefor as prescribed in this charter, or made consequent upon the judgment of any court or upon any failure to elect or qualify in any of the cases specified in this charter, must be filled in the following manner, unless otherwise specially provided in this act:

(a) In the office of Alderman, by an election of the Common Council to continue until the appointee's successor shall be elected and qualified.

(b) In any of the general elective offices of the city, by an election by the Common Council until the successor of such officer whose office has become vacant, shall have been elected at the next general municipal election and qualified.

(c) In all appointive offices by the appointment of the Mayor for the unexpired term of office which has become vacant, subject to confirmation by the council in those cases where confirmation is required of the original appointment.

REMOVAL FROM OFFICE.

(Sec. 19.) Par. 10. Any elective or appointive officer of the city, except Judges or Justices of the Peace, may be removed by the Common Council for official misconduct, or for unfaithful or improper performance of the duties of his office, or because such officer is ineligible

to hold the office for which he was elected or appointed. The steps taken in that behalf shall be entered in the records of its proceedings: Provided, That a copy of the charges against such officer sought to be removed, and notice of the time and place of hearing the same, shall be served on him at least ten days previous to the time so assigned, and opportunity given him to make his defense thereto. If personal service cannot be had upon such officer, a copy of such charges and notice aforesaid shall be left at his last place of residence within the city with some suitable person of proper age. An affirmative vote of two-thirds of all the Aldermen-elect shall be necessary to remove such officer. Judges and Justices of the Peace of the city shall be removed for such cause and in the manner provided for by the statutes of the State.

OPENING AND CLOSING OF POLLS.

(Sec. 20.) Par. 11. On the day of municipal election held by virtue of this act the polls shall be open in each of the respective precincts of each of the wards of said city at the several places designated by the Common Council at seven o'clock in the forenoon, or as soon thereafter as may be, and shall be continued open until five o'clock in the afternoon of the same day and no longer: Provided, That voting machines may be used in any ward or precinct if so ordered by the Common Council, and if used then the polls therein shall be kept open until eight o'clock in the afternoon.

WHO ARE QUALIFIED TO VOTE.

(Sec. 21.) Par. 12. All persons who are electors under the constitution of the State of Michigan, are made electors under this act and qualified to vote at all elections held by virtue thereof, and they shall be subject to the same challenge and required to take the same oath as may be provided by the laws of the State; and for any violation thereof shall be subject to the same pains and penalties as are prescribed by the State law.

BOARDS OF ELECTION INSPECTORS.

(Sec. 22.) Par. 13. The Aldermen residing in each ward of the city and as many as necessary of the electors of such ward as the Common Council shall appoint, shall constitute a board or boards of inspectors of election of such ward. Each board of election inspectors shall consist of four members: Provided, That in any ward or precinct where voting machines shall be used, not more than three members shall be chosen. Each voting precinct in a ward shall have a board of inspectors of election therein. The Common Council shall have power to designate the number of electors which shall constitute a voting precinct, which voting precincts shall be as nearly uniform in number of electors as possible. No person shall be a member of a board of inspectors of election of the ward in which he resides, nor shall any candidate for election so serve; and each member of such boards before entering upon its duties shall take and subscribe the constitutional oath of office. The members of each of such boards after the appointment of its chairman, shall appoint two competent persons, electors of the ward, as clerks of election who shall take the prescribed constitutional oath of office before entering upon their duties, to be administered by any person authorized to administer oaths or by the chairman of the board of which they are clerks.

BOARDS OF REGISTRATION.

(Sec. 23.) Par. 14. There shall be a board of registration for each voting precinct in the city consisting of two members, which the Common Council shall appoint and whose duties shall be such as are now provided, or as may hereafter be provided by the statutes of the State governing such boards in cities, and each member of such board of registration, before entering upon the duties of the office, shall take and subscribe the constitutional oath of office.

WHEN BOARDS OF INSPECTORS AND REGISTRATION TO BE APPOINTED.

(Sec. 24.) Par. 15. All members of the respective boards of inspectors of election and registration shall be appointed at least six days before they enter upon their respective duties as members of such boards, excepting that vacancies may be filled by the Common Council.

ELECTION INSPECTORS TO BE INSPECTORS FOR STATE, COUNTY, AND MUNICIPAL OFFICERS.

(Sec. 25.) Par. 16. Inspectors of election, as specified in the preceding sections, shall be inspectors of elections held in the several voting precincts of the city, for the election of state, county and municipal officers.

BOARD OF ELECTION COMMISSIONERS.

(Sec. 26.) Par. 17. The Common Council shall appoint three electors of the city at least ten days before any municipal election in said city, to act as a board of election commissioners of the city for the purposes of such election. Such board shall perform all duties relative to the preparation and printing of ballots required by law of the boards of election commissioners of counties, and like duties and privileges as are enjoined and granted by the laws governing general elections.

BALLOTS, PRINTING AND CARE OF.

(Sec. 27.) Par. 18. The names of candidates shall be given by the canvassing board of primary election in said city to said board not less than ten days before any such municipal election. Said board shall cause to be printed on one ballot the names of candidates aforesaid. All candidates of any party shall be placed in a separate column under the title of such party, and under the device of such party, if any such device shall have been furnished to said board by the party committee. The proof copy of the ballot shall be open to inspection at the office of the City Clerk not less than two full secular days before such election, and it shall be the duty of said board to correct such errors as may be found therein by such inspection. The ballots shall be of uniform size and of the same quality of white paper and sufficiently thick that the printing cannot be distinguished from the back. The ticket of the party having the greatest number of votes within the city at the last preceding general election therein shall be placed first on the ballot, the position of other tickets to be governed relatively by the same rule. Said ballots when printed shall be deposited by said board with the City Clerk, who shall securely keep the same where they cannot be molested by anyone.

BALLOTS—DELIVERY OF—CERTIFICATE FOR—COUNTING AND CANVASSING OF.

(Sec. 28.) Par. 19. It shall be the duty of the chairman or any member of the board of election inspectors of each voting precinct in the city to appear at the office of the City Clerk, not more than forty-eight hours before the hour of opening of the polls of any such municipal election, and the said City Clerk shall deliver to him in a sealed package the ballots and other material provided for his precinct. The necessary number of ballots shall be wrapped and tied in packages and securely sealed with wax, and the chairman of said board of election commissioners, or some member thereof authorized therefor by said board, shall make and sign a certificate setting forth the number of ballots in each package, and that such ballots were packed and sealed by himself personally, and upon delivery of such package and certificate to said inspector of election, he shall receipt for the same, and such certificate shall be returned and filed in the office of the City Clerk when the return of the number of votes cast in such precinct shall be made by said inspectors of election. For the safe sealing of such ballots said commissioners of election shall provide themselves with a seal of such design as they may deem proper. Said packages shall not be opened until delivered to the boards of election inspectors of the respective voting precincts to which they were directed after said boards shall be fully organized and ready for the reception of votes, as in this title provided. The method of counting such votes shall be in conformity with the statutes of the State regulating the counting of ballots at general elections, in force at the time of such election. Municipal elections and all other elections in the city shall be conducted under the provisions of the statutes of the State in force at the time of such election, including the return of the ballots cast thereat, except as herein otherwise provided. But all ballots cast at any municipal election shall be officially canvassed by the Common Council sitting as a board of canvassers.

BALLOTS FOR BONDING PROPOSITIONS.

(Sec. 29.) Par. 20. Whenever a question of bonding the city, or other special question is proposed to be voted upon by the electors of the city, the substance of such question shall be clearly indicated upon the ballot, and below the same upon the ballot shall be placed in separate lines the words, "Yes" and "No." The elector shall designate his vote by a cross (X) placed opposite the word "Yes" or the word "No."

IN FILLING VACANCIES—TERM OF OFFICE TO BE DESIGNATED ON BALLOT.

(Sec. 30.) Par. 21. If at any election to be held in said city there shall be one or more vacancies to be filled in any office, and at the same time any person is to be elected for the full term of said office, the term for which each person is voted for for the said office shall be designated on the ballot.

COUNTING OF BALLOTS BY INSPECTORS—STATEMENT OF VOTES.

(Sec. 31.) Par. 22. Immediately after the closing of the polls the inspectors of election shall forthwith, without adjournment, publicly canvass the votes received by them and declare the result, and shall on the same or next day make a certificate stating the number of votes cast for each person for each office, and shall file such state-

ment and certificate on the day of election, or on the next day with the Clerk of the city.

DUTIES OF INSPECTORS OF ELECTION.

(Sec. 32.) Par. 23. It shall be the duty of the inspectors of election on receiving the ballot of an elector to cause the same, without being opened or inspected, to be deposited in its proper box provided by the Common Council for that purpose. The board of inspectors of election shall cause the name of each elector voting at any such election to be written down on poll lists to be kept by the clerks of election under the supervision of said board. The votes cast at such election shall be canvassed in the same manner as provided by the general laws of the State in force at the time such election shall be held.

WHO DEEMED ELECTED.

(Sec. 33.) Par. 24. The person having the greatest number of votes for any office in said city or ward shall be deemed to have been duly elected to such office, and if any officer shall not have been chosen by reason of two or more candidates having received an equal number of votes, the Common Council shall by ballot elect such officer from the candidates.

CANVASS OF VOTES BY COUNCIL—COMMENCEMENT OF TERMS OF OFFICE.

(Sec. 34.) Par. 25. The Common Council shall convene on the Thursday next succeeding such election at seven-thirty o'clock P. M. at their usual place of meeting, and the statement of votes filed with the Clerk of the city by the inspectors of election shall be produced by such Clerk, and the Common Council shall forthwith determine and certify in the manner provided by law what persons are duly elected at said election to the several offices, respectively. Such certificates shall be made in duplicate, one of which shall be filed with the Clerk of the city and the other with the Clerk of the County of Kent. All officers of the city, elected or appointed, shall enter upon the duties of their respective offices on the first Monday in May next following such election, unless otherwise provided.

NOTIFICATION OF OFFICERS ELECTED—OATH OF OFFICE.

(Sec. 35.) Par. 26. It shall be the duty of the Clerk of said city as soon as practicable, and within five days after the meeting of the Common Council as provided for in the preceding section, to notify the officers respectively of their election; and the said officers so elected and notified as aforesaid, shall within ten days after the date of such notice take the constitutional oath of office, and file the same with the Clerk of the city, together with any bond which they may be required by law to execute and file as such officers.

SPECIAL ELECTIONS.

(Sec. 36.) Par. 27. Whenever a special election is to be held, the Common Council shall cause to be delivered to the inspectors of election in the wards or precincts in which such officers are chosen, a notice signed by them specifying the officer to be chosen, and the day and place at which such election is to be held. All the proceedings at such election shall be the same as at the general municipal elections.

ACCEPTANCE OF OFFICE.

(Sec. 37.) Par. 28. Every person elected or appointed to a city office, and every person appointed or nominated by the Mayor, and confirmed by the Aldermen elect of the Common Council, and every person elected by the Aldermen elect, before entering upon the duties of his office, and within five days after being notified of his appointment or election, shall cause to be filed in the office of the City Clerk, a notice in writing, signifying his acceptance of such office.

IN CASE ACCEPTANCE, OATH, ETC., ARE NOT FILED.

(Sec. 38.) Par. 29. If any person elected or appointed under this act shall not take and subscribe the oath of office required therein, and file the same as directed, or shall not cause a notice of acceptance to be filed as therein directed, and if required, shall fail to execute and file an official bond as therein required, the same shall be deemed to be a refusal to serve, unless before any steps are taken to fill any such office by another incumbent, such oath of office and acceptance are filed and such bond executed and filed as may be required.

CITY CLERK TO NOTIFY COUNCIL OF FILING OF OR FAILURE TO FILE ACCEPTANCE, OATH, ETC.

(Sec. 39.) Par. 30. At the expiration of twenty days after the election or appointment of any officer in said city, the City Clerk shall deliver to the Common Council a list of all the persons elected or appointed to office, and of the offices to which they are chosen, specifying such as have filed with him the oath of office or notice of acceptance required by this act, together with the bond, if any such bond is required by this act, and also those who shall have omitted to file the same within the time prescribed herein.

RESIGNATIONS OF OFFICERS.

(Sec. 40.) Par. 31. Resignations of any officer elected by the Common Council, or at a municipal election, shall be made to the Council and subject to its approval and acceptance; resignations of officers appointed by the Mayor with or without confirmation by the Council, shall be made to him and when accepted by him, shall be filed with the City Clerk.

RESIDENCE OF VOTERS.

(Sec. 41.) Par. 32. At all elections every voter shall vote in the ward or precinct wherein he shall have resided twenty days next preceding the day of election at which he casts his vote. The residence of an elector under this act shall be the ward and precinct where he boards or takes his regular meals.

VACANCY ON BOARD OF ELECTION INSPECTORS.

(Sec. 42.) Par. 33. At any election held under this act, if, from any cause, any of the inspectors of election shall fail to attend at any such election at the appointed time and place, his or their places may be supplied for the time being by the electors present who shall elect inspectors from their number viva voce, who, when so elected, shall take the oath prescribed for inspectors.

PAY FOR REGISTRATION AND ELECTION BOARDS—ELECTION EXPENSES.

(Sec. 43.) Par. 34. The several members of the boards of registration of said city and of inspectors of election therein shall receive for their services in that regard the sum of three dollars per day. For such work eight hours shall constitute a day's work. The expenses of any election to be held as provided in this act shall be city charges and defrayed in the same manner as other contingent expenses of the city.

OFFICERS TO HOLD OVER IN CASE OF SUCCESSOR FAILING TO QUALIFY. TERM OF OFFICE FOR PERSON FILLING VACANCY.

(Sec. 44.) Par. 35.- Any person elected or appointed to any office, at the expiration of the term thereof, shall continue to hold the same until his successor shall be elected or appointed and qualified; and when a person is elected at a regular or special election to fill a vacancy in any elective office, he shall hold the same only during the unexpired portion of the term of said office and until his successor shall be elected and qualified.

REGISTRATION.

(Sec. 45.) Par. 36. There shall be a general re-registration of the electors of the City of Grand Rapids in the year nineteen hundred and eight, in time for the general fall election of that year. There shall also be a general re-registration of the electors of said city every four years thereafter. The re-registration provided for in this section shall be conducted in accordance with the provisions of the registration laws of the State in force at the time that such re-registration shall take place.

DATE OF MUNICIPAL ELECTIONS.

(Sec. 46.) Par. 37. The first regular municipal election held in the city after the passage of this act shall be on the first Monday of April, nineteen hundred and six, and the same shall be held in the manner provided for by this act. A municipal election shall be held in said city on the first Monday of April in every year thereafter.

TITLE III.

POWERS AND DUTIES OF THE COMMON COUNCIL.

MEETING OF COUNCIL—HOW AND WHEN SPECIAL MEETINGS MAY BE CALLED.

(Sec. 51.) Par. 1. The Mayor and Aldermen of said city shall constitute the Common Council; they shall meet at such times and places as they shall from time to time appoint, and on special occasions, whenever the Mayor or person officiating as Mayor (in case of vacancy in the office of Mayor or of his absence from the city or inability to officiate), shall by written notice appoint, which said notice shall be served on the members of said Common Council by the Marshal of said city personally, or by leaving the same at the residence of said members at least eight hours before the hour of said meeting, which said notice shall specify the day, hour and place of meeting: Provided, That any ten members of the Common Council may call a special meeting thereof by filing a written request signed by them with the City Clerk, notice thereof to be given in the manner above prescribed.

PRESIDENT OF COUNCIL.

(Sec. 52.) Par. 2. The Common Council shall on the first Monday in May in each year, or within ten days thereafter, elect by ballot, one of their number, who shall be known as president of the council, and who shall have the same powers and discharge the duties of the Mayor, in the absence from the city, inability, death, resignation or removal of the Mayor. The Mayor, when present, shall preside at the meetings of the Common Council, and in his absence the president of the Council shall preside, but if both the Mayor and president of the Council be absent, then the Common Council shall appoint one of their number to preside.

ACTIONS OF COUNCIL—WHEN TO TAKE EFFECT—MAYOR'S VETO—CLERK'S DUTIES RESPECTING SAME.

(Sec. 53.) Par. 3. No ordinance, vote, motion or resolution passed by the Common Council shall have any force or effect if within twenty-four hours after its passage the Mayor, or other officer legally discharging the duties of Mayor, shall file in the office of the City Clerk, his reasons in writing why the same should not go into effect, and the same shall not go into effect or have any legal operation unless it shall at a subsequent meeting of the Common Council within 30 days after the filing of such reasons for disapproval be passed by the affirmative vote of two-thirds of the Aldermen-elect of said city, and if so repassed the same shall go into effect according to the terms thereof; and no ordinance, vote, motion or resolution of the Common Council shall go into operation until the expiration of twenty-four hours after its passage, unless the Mayor, or other officer legally discharging the duties of Mayor, shall sooner announce his approval, in writing, to be filed with the City Clerk.

When an ordinance appropriating money contains several items, and when an ordinance embraces more than one distinct subject, the Mayor may approve the provisions relating to one or more items or one or more subjects, and disapprove the others. In such cases those items or subjects which he shall approve, shall become operative, and those which he shall not approve shall be reconsidered by the Common Council and shall only become operative if again passed by it as above provided.

Whenever the Mayor, or other officer so acting, shall as in this section provided, file in the office of the City Clerk his written reasons why any ordinance, vote, motion or resolution passed by the Common Council should not go into effect, the City Clerk shall endorse thereon a memorandum of the day and hour of the receipt thereof. Such written reasons shall be printed and published in the next issue of an official newspaper of said city, and shall be a public record open at all times to public inspection. It shall be the duty of the City Clerk to communicate to the Common Council at its next meeting any paper that may be filed with him pursuant to the preceding section.

WHO ENTITLED TO VOTE.

(Sec. 54.) Par. 4. In the proceedings of the Common Council each member present shall have one vote, except the Mayor, who shall only have a casting vote when the votes of the other members are equally divided, but the president of the council shall vote only as a member of said council, and shall not have a casting vote.

CLERK'S MINUTES OF COUNCIL.

(Sec. 55.) Par. 5. The sittings of the Common Council shall be public. The minutes of the proceedings shall be kept by the Clerk and the same shall be open at all times to public inspection.

WHICH RESOLUTIONS, ETC., TO BE ENTERED AT LARGE IN MINUTES.

(Sec. 56.) Par. 6. Whenever required by two members of the Common Council the votes of all the members present in relation to any act, proceeding or proposition had at any meeting thereof shall be entered at large on the minutes. And such votes shall be entered in relation to the adoption of any resolution or ordinance, report of any committee, or other act for taxing or assessing the citizens of said city, or involving the appropriation or expenditure of public moneys.

QUORUM OF COUNCIL—RESTRICTION AS TO VOTING ON FRANCHISE GRANTS, ETC.

(Sec. 57.) Par. 7. A majority of the Common Council shall be a quorum for the transaction of business, and no tax or assessment shall be ordered, or any vote taken or resolution passed, the carrying out of which involves the expenditure of money, the ordering of a tax or assessment, except by an affirmative vote of a majority of all the members elect of the Common Council as decided by a yea and nay vote. The final passage of any ordinance imposing a penalty or the granting of a license shall require the affirmative vote of a majority of all the Aldermen-elect of the Common Council as decided by a yea and nay vote.

Provided, That no ordinance, or franchise grant, whether an original grant, extension or amendment thereto, and no contract involving the expenditure of more than ten thousand dollars, except contracts for street improvements, shall go into effect for thirty days after

its passage by the Common Council and approval by the Mayor or re-passage over his veto, and if within that period electors to the number of fifteen per cent. of the votes cast at the last preceding regular city election petition for the submission of such ordinance, franchise grant or contract to the vote of the people, then such proposed measure shall not go into effect unless submitted to the popular vote at a regular or special election and approved by a majority of the electors voting thereon.

CONTRACTS—MEMBERS OF COUNCIL NOT TO BE INTERESTED IN.

(Sec. 58.) Par. 8. No member of the Common Council shall be directly or indirectly interested in any contract as principal, surety or otherwise, or sale or purchase, the expense or consideration whereof is to be paid under any resolution or ordinance of the Common Council or under any of the provisions of this act. This section shall not preclude members of the Common Council from holding offices not inconsistent with the provisions of this act.

POWERS OF THE COMMON COUNCIL.

GOVERNMENTAL AND LEGISLATIVE POWERS.

(Sec. 59.) Par. 9. The Common Council shall have and exercise exclusively all legislative powers and authority of the city of Grand Rapids, and no legislative powers or authority express or implied shall be exercised by any other person or persons, board or boards, other than the Common Council, and all legislative powers conferred upon the city by this charter and the constitution and laws of the State of Michigan shall be exercised by the Common Council: Provided, That this act shall not interfere with the exercise of the powers and duties conferred upon the Board of Education of the City of Grand Rapids.

SUBJECTS FOR LEGISLATION.

(1) Subject to the limitations and provisions in this charter contained the Common Council may make, continue, establish, modify, amend and repeal such ordinances, by-laws and regulations as it deems desirable, with proper penalties, within the said city, and shall have power to legislate for the following purposes:

OFFICERS—DUTIES OF—BONDS, ETC.—COMMON COUNCIL TO BE JUDGE OF OWN MEMBERS, ETC.

(2) To prescribe the duties of all officers appointed or elected by it, their compensation, the penalty or penalties for failing to perform such duties, the bonds and sureties to be given by the officers of said city for the discharge of their duties and the time for executing the same in cases not otherwise provided for by law.

The Common Council shall be the judge of the election and qualification of its own members and to decide upon and determine contested elections of members thereof; to compel the attendance of absent members; to determine the rules of its proceedings and to pass all by-laws and rules necessary and convenient for the transaction of business, not inconsistent with the provisions of this act.

OFFICERS, ELECTION OF, ETC.

(3) To provide for and regulate the election and appointment of all officers and for their removal from office, and the filling of vacancies.

FEES, ETC.

(4) To authorize and regulate the demand and receipt by officers of fees and costs in such cases as the Common Council may deem desirable.

APPROPRIATE MONEY, ETC.

(5) To appropriate money and provide for the payment of the debt and expenses of said city, and make regulations concerning the same.

PRINTING AND PUBLISHING.

(6) To provide for printing and publishing all matters required to be printed and published under the provisions of this act or by order of the Common Council in such manner as said Council may prescribe.

PARKS AND PUBLIC BUILDINGS.

(7) To provide for public parks, public grounds and squares, and the improvement of the same. To erect and maintain all needful buildings and offices for the use of the corporation or of its officers, including building or buildings for police purposes, public baths, assembly or concert halls and the like, and control and regulate the same.

PURCHASE AND SALE OF REAL ESTATE, ETC.—MAINTENANCE OF JAILS, WORK HOUSES, ETC.

(8) The Common Council shall have power by vote of two-thirds of all the Aldermen elect to purchase and sell real estate for the use of the city. It shall also have power to purchase, hold and use suitable grounds within or without the corporate limits of the city and maintain thereon suitable jails, penitentiaries, houses of correction, work houses for the confinement of offenders, alms houses and homes for orphans or destitute children, and may provide for the government of the same and all persons confined therein.

CONTRACTS—TERM OF.

(9) To provide for entering into contracts by the city for a period of not exceeding three years including contracts for depositing city funds, except as in this charter otherwise provided.

FINANCE AND REVENUE POWERS.

TAX FOR SEWERS.

(10) To assess, levy and collect an annual assessment or tax upon the real and personal property of the city for the purposes of cleansing and keeping in repair the public sewers of said city.

LEVY AND COLLECTION OF TAXES.

(11) To assess, levy and collect taxes for the purposes of the corporation upon all property made taxable by law for state or city purposes, which taxes shall be a lien upon the property taxed until paid, and provide means for carrying into effect the powers herein conferred; to make regulations for the assessing, levying and collecting of such taxes subject to the State law, and to sell the property taxed to pay the taxes thereon.

POWERS RELATIVE TO PUBLIC HEALTH, WELFARE AND SAFETY.

ABATEMENT OF NUISANCES.

(12) To abate or remove all nuisances of every kind and compel the abatement and removal of the same; to order and compel the owner or occupant of any grocery, tallow chandler's shop, butcher's stall or shop, soap factory, tannery, stable, barn, stall, business of hides and pelts, livery stable, privy, water closet, hog pen, sewer or other nauseous or unwholesome house or place, to cleanse, remove or abate the same from time to time, and as often as the Common Council may deem necessary. To direct the location of all slaughter houses, rendering places, markets and market places, business of hides and pelts and livery stables. To prohibit any person from bringing or depositing any dead carcass or other unwholesome or nauseous substance within the limits of the city. If any person or persons shall have on any premises owned or occupied by him, her or it, within such limits, any such substances, or any putrid meat, fish, hides or skins of any kind which are unwholesome, nauseous or offensive, the Common Council may order or compel the removal thereof, and in case of the neglect or refusal of the owner or occupant of such premises to remove and abate the same, to direct the removal, abatement or destruction thereof by some proper officer of the city. The expense of abating any such nuisance shall be a lien upon the land upon which it existed, and the amount of the same shall be placed in the nuisance roll hereinafter provided. Nothing in this act contained shall be construed to limit the powers of the city as set forth in act No. 120 of the Public Acts of 1903.

PUBLIC HEALTH—BIRTHS, DEATHS, ETC.—SMOKE AND DUST NUISANCE.

(13) To provide for the preservation of the general health of the inhabitants of said city, make regulations to secure the same, prevent the introduction or spreading of contagious or infectious diseases, and to prevent and suppress diseases generally. To regulate the burial cremation or transportation of the dead and compel the return of births and deaths to be made to its board of health, and the return of all burial permits to such board, and provide for a complete record of births and deaths and interments, to be kept in the office of its Board of Health, and in each and every other particular to compel compliance with the laws of the State of Michigan in this regard and to compel the abatement of smoke and dust.

CONSTRUCTION OF SEWERS, BRIDGES, ETC., IN PUBLIC STREETS—REGULATION OF SANITARY CONDITION OF PRIVATE PREMISES AND EXPENSE OF SAME.

(14) To establish, construct, maintain, repair, enlarge and discontinue within the highways, streets, avenues, lanes, alleys and public places in said city such bridges, culverts, sewers, drain and lateral drains and sewers as the Common Council may decide to be necessary. To compel the owners and occupants of all lots, premises and subdivisions thereof within said city to construct private drains and sewers therefrom to connect with some public sewer or drain. To regulate house draining and ventilation; to direct and regulate the location, construction and alteration of all cellars, slips, barns, private drains, cess-pools, sinks, privies and water closets; to compel all owners or occupants of houses or premises to drain, cleanse, alter, relay or repair sinks, privies and water closets, and to compel owners or occupants of houses or premises having water closets attached thereto to use water from the mains of the city to properly cleanse

the same, and to compel the owners or occupants of houses or premises to repair or renew all defective, broken or worn out plumbing, and to provide sufficient and proper ventilation and plumbing in and around their buildings and premises, or cause the same to be done by some proper person designated in the ordinance governing the same, and if done by the city, to assess the expense thereof on the lot, building or premises having such cellar, slip, barn, private drain, cess*pool, sink, privy or water closet thereon, or having the repairs, renewals or insufficiencies in the drainage, ventilation or plumbing made in the building or on the lot or premises, which assessment shall be a lien on the said lot, building and premises and appurtenances thereto until paid, the same to be collected in the manner and in accordance with the provisions of title VI. of this act for the assessment of the expense of constructing and repairing sidewalks; to direct and regulate the construction of lateral sewers or drains for the purpose of draining all lots, cellars, yards, low grounds and sinks within the city whenever necessary: Provided, That if such lateral sewer or drain be laid or constructed through any of the streets, lanes, alleys, courts, avenues, public grounds or public places, adjoining or in front of the premises through which such sewer or drain shall be ordered constructed, the expense thereof shall be assessed on such lots and premises benefited thereby, which assessment shall be a lien upon such lots and premises until paid, and shall be collected in the same manner as like assessments imposed by authority of the Common Council are collected.

GOVERNMENTAL AND POLICE POWERS.

PUBLIC PEACE—DISORDERLY HOUSES—SALE OF LIQUORS, RESTRICTION AS TO LOCATION, POOL AND BILLIARDS.

(15) To prevent vice and immorality, to preserve public peace and good order; to prevent and quell riots, disturbances, disorderly assemblages and gaming houses; to destroy all instruments and devices used for gaming; to prohibit all fraudulent devices used in gaming and to regulate or restrain billiard tables and bowling alleys; to restrain, license and regulate saloons or other places where intoxicating liquors or malt, brewed or fermented liquors are sold, or to be sold, given away, or otherwise disposed of, and to regulate and prescribe the location thereof. To create by ordinance such district or districts, within which, subject to the foregoing provisions and limitations, all bars, saloons and clubs where intoxicating liquors are disposed of, may be confined.

SALOON LICENSE—SALE OF LIQUORS.

(16) To forbid the vending or disposition of intoxicating liquors in violation of the laws of the State. No person shall engage in the business of selling intoxicating or spirituous liquors, or malt, brewed or fermented liquors as aforesaid (except druggists, who shall have complied with the state law), until he shall have first obtained a license therefor by the vote of two-thirds of all of the Aldermen elect of the Common Council: Provided, That no license shall be issued to any person for the selling of any such liquors as aforesaid until he shall have first paid the state tax for the sale of the same, and the license fee required to be paid by the city of Grand Rapids: And provided further, That the applicant for such a license shall first apply to the Board of Police and Fire Commissioners of the City of Grand Rapids, and be recommended by a majority of all of the members of said Board, entered upon the records of said board, for a license at the location for which application is made, before his application shall be considered and acted upon by the Common Council of said city.

CIRCUSES AND OTHER PUBLIC PERFORMANCES.

(17). To prohibit, restrain or regulate all sports, exhibition of natural or artificial curiosities, caravans of animals, theatrical exhibitions, circuses or other public performances.

DRUNKARDS, BEGGARS, ETC.

(18) To restrain drunkards, vagrants, mendicants and street beggars from soliciting alms and to punish them for so doing, and provide for the punishment of all persons drunk or disorderly on the streets, or public places of said city.

DOGS—GAME COCKS.

(19) To regulate and prevent the running at large of dogs; to prevent dog fights in the streets; to prevent the fighting of game cocks in the city, and to provide for the destruction of dangerous and vicious dogs; to require the payment of a license fee by the owner or persons having possession of dogs, and for imposing a penalty upon such person or persons for refusing to pay such license fee.

RIOTS AND DISORDERLY ASSEMBLAGES.

(20) To prohibit and prevent any riot, rout, disturbance or disorderly assemblage in the streets or elsewhere in the city, and to preserve quiet and order therein.

INDECENT EXPOSURE OF PERSON—OBSCENE PICTURES, ETC.

(21) To prohibit or prevent in the streets or elsewhere in said city indecent exposure of the person, the show, sale or exhibition for sale of indecent or obscene pictures, posters, drawings, engravings, paintings and books, and all indecent or obscene exhibitions or shows of any kind.

HOUSES OF ILL FAME—GAMBLING AND SUPPRESSION OF LOTTERIES, ETC.

(22) To prohibit and suppress the keeping of houses of ill-fame or assignation, or for the resort of common prostitutes, and disorderly houses of all kinds; to restrain and punish the keepers of all such houses and places as aforesaid; to punish common prostitutes and disorderly persons; to prohibit, prevent and suppress mock auctions, and every kind of fraudulent game, device or practice, and to punish all persons managing, using, practicing or attempting to manage, use or practice the same, and all persons aiding or abetting in the management, use or practice thereof. To prohibit, restrain or prevent persons from gaming for money or property with cards, dice, billiards, nine or ten pin alleys, tables, ball alleys, wheels of fortune, boxes, machines or other instruments or device whatsoever in any building or place in the city, and to punish the persons keeping the building, instrument or means for such gaming, and to compel the destruction thereof. To prevent, prohibit and suppress all lotteries or raffles for drawing and disposing of money or other property or thing whatever, and to punish all persons maintaining, directing or managing the same or aiding in the maintenance, direction or management thereof.

LICENSE OF DRAYMEN, HACKMEN, RUNNERS AND VEHICLES FOR HIRE.

(23) To license and regulate draymen, cartmen, truckmen, porters, runners, drivers of cabs, hackney coaches, omnibuses, stages, carriages, sleighs, automobiles, express vehicles and vehicles of every

description used and employed for hire, and to fix and regulate the amount and rate of their compensation. To prescribe and designate the stands, places and locations in the city within which all such conveyances and vehicles as aforesaid may stand, and to prescribe the stands, places and locations in which all wood, hay, straw, produce, goods, wares and merchandise of whatever nature, exposed for sale on the streets, alleys or public places of the city.

LICENSE AUCTIONEERS, PEDDLERS, PAWNBROKERS, LABOR BUREAUS, BILL POSTING, ETC.

(24) To license and regulate auctions and auctioneers, hawkers, peddlers, pawn brokers, junk dealers, dealers in second hand goods and merchandise and transient tradesmen; to license and regulate employment agencies and offices, intelligence offices, labor bureaus and all persons whose business it is to find employment for others for hire or reward, to require references and bonds to be given, by every person, company, corporation or association engaging in such business before the same shall be licensed; to license and regulate bill posting, the putting up of advertising signs or matter, and the distribution of such matter in the city.

LICENSE HOTELS, SALOONS, RESTAURANTS, BUTCHERS, HUCKSTERS.

(25) To license and regulate hotels and other public houses, saloons and victualing houses or places for the furnishing of meals or food. To license and regulate butchers, hucksters, shops, stalls, booths or stands, or other places in said city, for the sale of any kind of meat, fish, poultry, vegetables, food or provisions.

TAX AND REGULATE KEEPERS OF BILLIARD TABLES, ETC., NOT KEPT FOR PURPOSE OF GAMING.

(26) To tax and regulate billiard or pool tables, bowling alleys not kept for the purpose of gaming.

CARS (RUNNING OF) REGULATIONS AS TO SPEED—FLAGMEN, STATIONING OF, ETC.

(27) To prescribe and regulate the speed of cars and engines on railroads, street or electric cars, within the limits of said city, and prohibit railroad cars from standing across or otherwise obstructing the streets of said city. To determine and designate the route and grade of any railroad to be laid in said city; to regulate the use of locomotives and cars upon railroads within the city, and to compel the owners and managers of any railroad to station flagmen at street crossings, and make such other rules and regulations concerning such railroads as may be necessary for the safety of the citizens of said city.

LICENSES—DURATION OF—REVOKING OF—BONDS FOR.

(28) To authorize the granting, issuing and revoking of licenses in all cases where licenses may be granted and issued under this act and the ordinances of the city. To direct the manner of issuing and registering the same and prescribe the sums of money to be paid therefor into the city treasury. No license shall be granted for more than one year and before the issuance thereof the licensee shall execute a bond to the city in such penal sum as the Common Council may prescribe, with one or more sureties conditioned for the faithful observance of this act and the ordinances and regulations of the Com-

mon Council of said city. The officer authorized to issue said license may inquire into the sufficiency of the sureties of such bonds by an examination under oath or otherwise as to their property and responsibility.

PENALTIES—TO BE PRESCRIBED—SENTENCES, ETC.

(29) To provide for the punishment of all offenders for violations of or offenses against this act or the ordinances of said city enacted pursuant to the powers herein conferred, or any act of the legislature, by holding to bail for good behavior, by imposing fines, penalties or forfeitures and costs, by imprisonment in the jail of Kent county, or in any penitentiary, house of correction, jail or workhouse in the city, or in any State house of correction or in the Detroit house of correction, or by both fine and imprisonment in the discretion of the court before whom a conviction may be had, and to contract with the authorities of such institutions to this end. All punishments for offenses against any of the ordinances of the Common Council shall be prescribed in the ordinances creating or specifying the offense to be punished, and no penalty, fine or forfeiture shall exceed the sum of five hundred dollars exclusive of costs, and no imprisonment shall exceed the period of one year. If only a fine, penalty or forfeiture with costs be imposed the offender may be sentenced until the payment thereof for a term not exceeding six months.

WORK—TO BE PROVIDED—AND IMPOSED—IN NON-PAYMENT OF FINES, ETC.

(30) To provide for the employment of all persons confined for the non-payment of any fine, penalty or forfeiture, or for any offense under this act, or any ordinance of the Common Council, in the common jail of the county of Kent, or in any jail, workhouse, or house of correction in said city at work or labor, either within or without the same, or upon the streets of said city, or any public work under the control of the Common Council, to allow any person thus confined for the non-payment of any fine, penalty, forfeiture or costs, to pay and discharge the same by work or labor, and to fix the value and rates for such work and labor.

STREETS.

OBSTRUCTION OF.

(31) To prevent the cumbering of streets, highways, sidewalks, cross-walks, lanes, alleys, courts, public grounds or public places, bridges, viaducts, aqueducts, wharves or slips in any manner whatever.

RIDING—DRIVING AND CARE OF VEHICLES AND HORSES.

(32) To require any horse or other animal attached to any vehicle or standing in any of the streets, lanes, alleys, highways, courts, public places or public grounds of said city, to be securely fastened, watched or held, and to secure the proper driving of the same through such streets, lanes, alleys, courts, public grounds or places; to prevent horse racing or immoderate riding or driving in any such streets, lanes, alleys, courts, public grounds or public places either with horses, carriages, automobiles, bicycles or other vehicles; to authorize the stopping and detaining of any person violating any of the provisions of this subdivision, and to provide for the punishment of any such person.

SIDEWALK—OBSTRUCTIONS OF—SNOW, ETC.

(33) To compel all persons to keep sidewalks in front of premises owned or occupied by them clear from dirt, wood or obstructions, and every owner or occupant of any house or building and every owner or agent of any lot in the city of Grand Rapids, to keep said sidewalks free and clear from snow or ice, and not to permit such snow or ice to remain thereon.

DISTURBING NOISES IN STREETS—RINGING OF BELLS—CRYING OF WARES.

(34) To regulate the ringing of bells and the crying of goods and other commodities for sale at auction or otherwise, and prevent disturbing noises in the streets.

ESTABLISHMENT OF LOT LINES—ADVERSE POSSESSION—VACATION OF.

(35) To regulate and establish the line upon which buildings may be erected upon any street, lane or alley in said city, and to prevent such buildings or other encroachments being erected nearer the street than said line, and to impose a fine upon any owner or builder violating this provision, not to exceed five hundred dollars. Provided, That no person, persons, firm or corporation shall by reason of adverse possession, be entitled to any street, lane, alley, public place, square or any part thereof by reason of any occupancy created or claimed by adverse possession made by virtue of said occupancy. Provided, further, That the Common Council shall not by virtue of this or any other subdivision of this charter possess power to give away the control of any street, lane, alley, court, public square or place, or create any permanent use thereof for any other purpose than for street or public purposes, except by regular vacation proceedings.

LIGHT IN STREETS AND PROTECTION OF APPARATUS.

(36) To provide for and regulate the lighting of streets, highways, alleys, lanes, courts, public places and grounds and buildings in the city, by contract or otherwise, and provide for the protection of public lands and lighting apparatus placed thereon.

DISPOSAL OF STREET REFUSE.

(37) To sell or otherwise provide for the disposal of all dirt, filth, manure, cleanings, and all other substances lying in or gathered from the highways, streets, avenues, lanes, courts, alleys and public places and grounds of said city.

STREETS—CLEANING OF—REGULATE AND LIMIT USE OF SIGNS, AWNINGS—PREVENT INJURY TO CURBS, PAVEMENTS, TREES, ETC.

(38) To provide for and regulate the cleaning of the highways, streets, avenues, lanes, alleys, courts, public places and grounds, crosswalks and sidewalks in the city; to prohibit, regulate and control the exhibition of signs on canvass or otherwise, in or upon any vehicle standing or moving upon the streets of the city; to control, prescribe and regulate the mode of constructing and suspending signs and awnings; to prescribe and regulate the manner in which the highways, streets, avenues, lanes, alleys, courts, public grounds and public places within said city shall be used, and for the preservation thereof, and the prevention of injury to the curbs, gutters, pavements, sidewalks, trees, streets, lawns and parks therein.

TO PREVENT AMUSEMENTS DANGEROUS TO LIFE AND PROPERTY—REMOVAL OF WALLS, FENCES, ETC.

(39) To prohibit all practices, amusements and doings in said streets having a tendency to frighten teams and horses, dangerous to life or property, and punish persons indulging therein; to remove or cause to be removed therefrom, or from the premises adjacent thereto, all walls and structures liable to fall therein; and to provide for and regulate the erection and use of suitable hitching posts and blocks.

STREETS, SURVEY OF—ENCROACHMENTS—BARBED WIRE FENCES—PLANTING AND PRESERVATION OF SHADE TREES—PENALTIES.

(40) To survey and establish the boundaries of the city, highways, streets, avenues, lanes, alleys, courts, public parks, squares, public grounds and public places; to prohibit and remove all incumbrances and encroachments on the same by buildings, fences, or in any other manner; to prohibit the use of barbed wire or other dangerous material for fences on street lines and to regulate its use in other places in said city; to number buildings, regulate the planting, preservation and removal of shade, ornamental or other trees in the public streets, avenues, courts, public grounds and public places, and the trimming and care thereof, and the trimming and care of trees adjoining thereto, in such manner as not to interfere with public travel or obscure public lights thereon, and to require the same to be done at the expense of the owner of the premises adjoining the same, and if such owner shall refuse or neglect after reasonable notice so to do, to conform to such regulations, to cause the same to be carried out and enforced at the expense of the city, and assessed upon and to become a lien upon such adjoining premises until paid, and the same may be collected in the manner and in accordance with Title 5 of this act for the assessment of the expense of constructing and repairing sidewalks.

STREETS—SPRINKLING OF—ALTERATION OF—APPROPRIATION OF PROPERTY FOR PUBLIC USES.

(41) The Common Council may, by ordinance or otherwise, provide for the sprinkling of the public streets, highways, lanes, alleys and courts, the expense thereof to be paid from the highway fund. It may provide for the punishment of all persons who shall encumber and encroach upon the same. The Common Council shall have full power to lay out, establish, open, extend, widen, straighten, alter, close, fill in, grade, vacate or abolish any street, highway, lane, alley, court, public place or public ground in said city, or any sewer therein; to grade any such highway, street, lane, alley, court, public ground or public place whenever it shall deem it a necessary public improvement, and private property may be taken therefor in the manner provided in this act, or by the general laws of the state.

EMINENT DOMAIN.

(42) To appropriate private property for public use in the city of Grand Rapids for streets, alleys, parks, boulevards, public buildings, bridges or brick approaches, docks, slips, basins, landings and warehouses on Grand River, and for the improvement of water courses for sewers, drains, ditches, public hospitals, pest houses, quarantine grounds and public cemeteries. Such property may be acquired by the city of Grand Rapids either by purchase through the Common Council or condemnation for public use in the manner provided for by the general laws of the state relating to the taking of private property for public use in cities and villages.

MISCELLANEOUS.

MARKETS—VENDORS OF MEATS, FRUITS, ETC., SALE OF MILK—LICENSES FOR—PROVIDING FOR INSPECTION AND FOR SEALER OF WEIGHTS AND MEASURES.

(43) To establish and regulate the markets and market places of said city; to regulate the vending of hay, straw, fodder and other food of animals; to regulate the vending of meats, poultry, vegetables, fruit, fish, flour, salt, milk and all other food or food products, and all kinds of groceries sold at wholesale or retail, in packages or otherwise, and to prescribe the time, manner and place for selling the same. To prohibit the sale of every kind of nauseous, unsound or unwholesome meat, poultry, vegetables, fruit, fish, flour, meal, salt, milk and all other food or food products, and all kinds of provisions sold by wholesale or retail; to punish all persons who shall sell the same or offer or keep the same for sale. To compel all persons selling milk or keeping the same for sale in said city, to procure a license therefor and to be properly registered. To direct and regulate the inspecting and weighing of all meat, poultry, vegetables, fruit, fish, flour, meal, salt, milk and all food or food products, and all kinds of groceries and provisions sold at wholesale or retail in packages or otherwise. To direct and regulate the measuring, gauging or weighing of all groceries, food or food products, liquid or solid, sold by measure, at wholesale or retail in packages or otherwise. To regulate the weights and measures used in said city, and compel every merchant, retailer, trader and dealer in merchandise, groceries, provisions or articles of every description which are sold by measure or weight to use weights and measures to be sealed by the city sealer, and to be subject to his inspection and alteration, so as to be made conformable to the standard of weights and measures established by the general laws of the state. To direct and regulate the inspecting and measuring of wood, lumber, shingles, timber, posts, stone, heading and all building material, the inspecting, weighing and measuring of coke and all kinds of coal, and the inspecting of hay, straw, fodder and other food products for animals. To impose a reasonable license fee upon the persons engaged in any of the aforesaid lines of business: Provided, That nothing herein contained shall authorize the Common Council to restrain in any way or license the sale of fresh or wholesome meat by the quarter within the limits of said city; nor to prohibit any farmer selling without a license the products of his own farm within said corporate limits, or any person from selling articles or products of his own growth or manufacture. Nothing herein contained shall be construed to authorize the inspection, weighing or gauging of any article or product which is to be shipped beyond the limits of this state, except at the request of the owner thereof, or of the agent having charge of the same.

SEXTONS—UNDERTAKERS—SCAVENGERS, CHIMNEY SWEEPS—LAWS AND LICENSE FOR.

(44) To pass all needful laws and regulations governing sextons and undertakers for burying the dead, and to regulate the business of scavengers and chimney sweeps and their compensation and the fees to be paid by them for licenses.

PARKS, BOULEVARDS—DRIVEWAYS, ETC.—COMMON COUNCIL POWER IN PURCHASING AND MAINTAINING OF—TAKING OF PRIVATE PROPERTY FOR SAME.

(45) The Common Council shall have power by the concurrent votes of two-thirds of all the Aldermen elect to obtain by purchase, or gift, and to hold, improve and properly maintain real estate within

the limits of the city for park, driveway and boulevard purposes. It shall also have power to lay out, establish, improve and embellish, hold, control and maintain parks, driveways and boulevards without the corporate limits of the city whenever it shall be deemed by the Common Council, on the concurrent vote of two-thirds of all the Aldermen elect, that the same is a necessary public improvement for the benefit of the city, and private property may be taken therefor in the manner provided in this act, or by the general laws of the State.

**PURCHASE OF PROPERTY FOR OPENING AND WIDENING OF STREETS,
ETC., BY RESOLUTION OF COUNCIL—WHO TO BE ASSESSED
DECLARING OF DISTRICT.**

(Sec. 60.) Par. 10. Whenever the Common Council shall determine by resolution that the opening, extension, widening, altering, or straightening of any street, highway, lane, alley, court, public ground or public place, or the construction of any sewer in said city, is a necessary public improvement, or that the taking of lands for parks or for sites for any of its public buildings, or for docks or dockage purposes, is a necessary public improvement, and that it is necessary to take private property therefor, it shall be lawful for said Common Council to negotiate with the owner thereof for the purchase and conveyance of the same to the city, and to devote the same to the public use described in the resolution, and to no other purpose. In case any such negotiations shall result in the sale and conveyance of such private property to said city for the public use described in said resolution, it shall be lawful for the Common Council, if it believes that a portion of the real estate in said city adjacent to or in the vicinity of such improvement will be benefited by such improvement, to determine the same by an entry in its minutes to that effect of the amount of benefits that will accrue to such property in the immediate vicinity, and to determine and declare that the whole or any just proportion of such purchase price shall be assessed upon the owners of real estate deemed to be thus benefited, which determination and declaration shall be entered in its minutes; and it shall thereupon by resolution fix, determine and declare the district or portion of real estate in said city deemed to be benefited thereby, and specify the amount to be assessed upon the owners of such taxable real estate therein.

**PROPERTY TO BE ASSESSED ACCORDING TO BENEFITS—TO BECOME
A LIEN.**

(Sec. 61.) Par. 11. The amount of the benefit thus ascertained shall be assessed upon the owners of such taxable real estate in proportion as near as may be to the advantage which the same shall be deemed to be benefited by such improvement. The general laws of the State of Michigan relating to the assessment and compensation awarded by jury for property taken for public purposes in cities, and villages of this state, and the acts amendatory thereof, and all proceedings incident thereto, shall apply to the assessments to provide for the payment of such purchase price so far as the same can be made applicable under this act. Said assessments shall be and remain a lien upon the real estate so assessed until they are paid.

**COMMON COUNCIL BY ORDINANCE—COVER AND GUARDING OF MILL
RACE.**

(Sec. 62.) Par. 12. The Common Council shall also have power by ordinance or otherwise to require owners or occupants of any

mill-race to cover or otherwise guard the same with bridges, arches or fences to be constructed of good and durable material, or it may direct the same to be covered in the manner that other public improvements are directed to be made and pursuant to the provisions of Title five of this act so far as the same are applicable.

WHEN COUNCIL CAUSES SAME TO BE DONE—TO BECOME A LIEN.

(Sec. 63.) Par. 13. Whenever the owner or occupant of any mill-race shall refuse or neglect, within such reasonable time as the Common Council shall have appointed, to cover such mill-race in the manner and with the material directed by it, it shall be lawful for the Common Council to cause the same to be done at the expense of the city, and the same shall become a lien upon the mill property to which said mill race is adjacent until paid. Such expense shall be assessed upon such mill property and collected in accordance with the provisions of Title five of this act for the assessment and collection of the expense of constructing and repairing sidewalks.

SUIT BY SUMMONS—SUPERIOR COURT—FOR NON-PAYMENT.

(Sec. 64.) Par. 14. All fines, penalties and forfeitures may be sued for and recovered with costs in the name of the city of Grand Rapids, and such suit may be commenced by summons or warrant in the Superior Court of Grand Rapids. For the recovery of fines, penalties or forfeitures against railroads or other corporations imposed by virtue of any provision of this act, or any ordinance of the Common Council, suit may be commenced in form as aforesaid in the Superior Court of Grand Rapids and prosecuted to effect therein.

ORDINANCE CONTAINING PENALTY—WHEN EFFECTIVE.

(Sec. 65.) Par. 15. Any ordinance of the Common Council imposing a penalty shall not take effect until the expiration of one week after the first publication thereof in one of the official newspapers in said city.

CLERK'S RECORD—CERTIFIED—PRIMA FACIE EVIDENCE.

(Sec. 66.) Par. 16. A record or entry made by the Clerk of said city, or a copy of such record or entry, duly certified by him shall be prima facie evidence of the time of such first publication, and all laws, regulations and ordinances of the Common Council may be read in evidence in all courts of justice, and in all proceedings before any officer, body or board, in which it shall be necessary to refer thereto, either from the record itself, or from a certified copy made by the Clerk of the city, with the seal of the city affixed thereon, or from the volume of ordinances printed by the authority of the Common Council.

FISCAL YEAR—FILING OF STATEMENTS BY DEPARTMENTS.

(Sec. 67.) Par. 17. The fiscal year of the city of Grand Rapids shall end upon the last day of March in each year, and the new fiscal year begin upon the first day of April in each year after this law shall take effect. And upon the first day of April of each year the various boards and the head of each and every department of the city, shall make and file with the city clerk a full and complete statement of the business of said several boards and said several departments during the last year and accounts thereof, including all disbursements and receipts of said boards and departments.

ANNUAL STATEMENT BY COUNCIL.

(Sec. 68.) Par. 18. On the last Tuesday in the month of April in each year, the Common Council shall audit and settle the accounts of the city treasurer and the accounts of all other officers and persons having claims against the city or accounts with it, and shall make out a statement in detail of the receipts and expenditures of the corporation during the preceding year, in which statement shall be clearly and distinctly specified the several items of expenditure made, the objects and purposes for which the same were made, and the amount of money expended under each; the amount of taxes raised for the general contingent expenses; the amount raised for lighting and policing the city; the amount of highway taxes and assessments for opening, paving, planking, repairing and altering streets, and building and repairing bridges; the amount borrowed on the credit of the city and the terms on which the same was obtained, and a summary of the reports of the several boards and heads of departments of the city together with such other information as shall be necessary to a full understanding of the financial conditions of the city.

STATEMENT TO BE SIGNED BY THE MAYOR AND CLERK AND PUBLISHED.

(Sec. 69.) Par. 19. The said statement of the Common Council of accounts as audited and settled shall be signed by the Mayor and Clerk and filed with the Clerk of the city, and published by the Clerk at the expense of the city in the official proceedings.

CITY ELECTRICIAN—INSPECTOR OF GAS, COUNCIL TO APPOINT.

(Sec. 70.) Par. 20. The Common Council shall have power to appoint an inspector of gas meters and gas, and to fix the quality of gas furnished in the city, both in regard to its lighting and heating power, and to establish a standard of gas to be sold within the city, and to regulate so far as may be necessary in the interest of the public the delivery of said gas to customers therefor; to appoint a city electrician and an examiner of engineers and of stationary engines within the city; to prescribe their power and duties and fix their compensation, and to regulate the manner of the operation of engines within such bounds as may be necessary for the public protection.

DUTIES OF BUILDING INSPECTOR—COUNCIL TO PRESCRIBE.

(Sec. 71.) Par. 21. The Common Council shall prescribe the duties of the building inspector and fix his compensation. It shall provide regulations for the construction and repair of buildings and may restrict the height of buildings within the city, and the proportion or space of any lot or lots that may be covered with buildings; it may require by ordinance plans and specifications of proposed buildings to be submitted to the building inspector under the rules and regulations of the Common Council, and may collect a reasonable fee for the inspection of all buildings to be erected or repaired. The building inspector shall be vested with and possess the powers conferred on boards of building inspectors under the general laws of the state.

EXPENSE TO BE BORNE BY OWNER FOR REPAIRS, ETC., ORDERED BY INSPECTOR.

*(Sec. 72.) Par. 22. In case any expense is incurred by the city of Grand Rapids in pursuance of any action or recommendation of its building inspector in relation to any building while in the discharge of his duties such expense shall be a personal charge against the owner of such building and may be collected of him in the name of the city of Grand Rapids in any competent court having jurisdiction thereof, and in case any expense is incurred by said city in abating or removing a public nuisance growing out of the condition or location of a building, such expense shall be a personal charge against the owner of such building and may be collected of him in the name of the city in the Superior Court of Grand Rapids. In either of the foregoing cases such expense so incurred by the city shall be and remain a lien upon such building, and the premises upon which the same may be located, and the appurtenances thereto, until such expense is paid; and such expense may be assessed upon such building and premises and appurtenances thereto, and collected in accordance with the provisions of Title five of this act for the assessment and collection of the expense of constructing and repairing sidewalks.

DISTRICT WHERE CERTAIN BUILDINGS PROHIBITED.

(Sec. 73.) Par. 23. Any building composed of wood or other combustible material, erected in or removed into any part or portion of said city, wherein the erection or removal of such building is prohibited by any ordinance of the Common Council, shall be deemed and is hereby declared to be a public nuisance, and the Common Council may take measures to abate and remove the same.

RESTRICTIONS AS TO BUILDINGS DEEMED HAZARDOUS AND THOSE CONSIDERED NUISANCES.

(Sec. 74.) Par. 24. The Common Council may prevent and prohibit the location or construction or maintenance of buildings for the storing of gunpowder, powder factories, tanneries, distilleries, building for the manufacture of turpentine, camphene and all other dangerous or explosive substances; slaughter houses and yards, butchering shops, soap, candle, starch and glue factories; establishments for steaming or rendering lard, tallow, offal and such other substances as can be rendered into tallow, lard or oil, and all establishments where any nauseous or unwholesome business may be carried on, within certain limits within the city, to be determined by the Common Council. Such buildings, factories, shops and establishments as aforesaid now existing or hereafter to be constructed in said city, together with blacksmith shops, founderies, cooper shops, steam boiler factories, carpenter shops, planing establishments, breweries, and all buildings and establishments usually regarded as hazardous in respect to fires, shall be subject to such regulations in relation to their construction and management as the Common Council shall make for the preservation of the health, safety and property of the inhabitants of said city, and to prevent the same from becoming in any way public nuisances. The Common Council may take all necessary measures to prevent annoyances to the public and protect all persons in the city from injury to their health and property caused by the discharge of dense smoke into the atmosphere.

TO PREVENT CERTAIN BUILDINGS IN FIRE DISTRICT.

(Sec. 75.) Par. 25. The Common Council may prohibit and prevent the location or construction of any wooden or frame house, store, shop, building or brick veneer structure on such streets, alleys and places, or within such limits in the city as it may from time to time prescribe; and prevent or regulate the removal of wooden or frame buildings from any part of said city to any lot or location on such streets, alleys and places within such limits, and the rebuilding or repairing of wooden or frame buildings on such streets, alleys and places within such limits when damaged by fire or otherwise.

REGULATIONS TO PREVENT FIRES, ETC.—COMMON COUNCIL MAY LICENSE INSPECTION OF ENGINES AND BOILERS.

(Sec. 76.) Par. 26. The Common Council may regulate the construction of partition fences, partition and parapet walls, the walls of buildings, the thickness of walls, and regulate the construction of chimneys, hearths, fire places, fire arches, ovens and the putting up of stoves, stovepipes, kettles, boilers, or any structure or apparatus that may be dangerous in causing or promoting fires; to prohibit and prevent the burning out of chimneys and chimney flues; to compel and regulate the cleaning thereof and fix the fees therefor; to compel and regulate the construction of ash houses and the deposit of ashes; to compel the owners of houses and other buildings to have scuttles upon the roofs thereof and stairs or ladders leading to the same; to appoint one or more officers to enter into all buildings and enclosures to discover whether the same may be in a dangerous condition and to cause such as are in a dangerous condition to be put in a safe condition; to authorize any of the officers of the city to keep away from the vicinity of fires all idle or suspicious persons; to aid in the extinguishment of fires and in the preservation of property exposed to danger therefrom; to license and regulate engineers of stationary engines within the corporate limits of the city, and to regulate the inspection of boilers of stationary engines therein.

WIRING IN STREETS AND BUILDINGS TO BE REGULATED BY ORDINANCE —BUILDING OF CONDUITS AND RENTAL OF.

(Sec. 77.) Par. 27. The Common Council shall have the power to regulate by ordinance the business of stringing wires in the streets and public places of said city for the purpose of conducting electric currents, and regulate the business of wiring buildings for conducting electric currents into and through the same; to provide a series of conduits under the streets, lanes, alleys and public places of the city, or any part or parts thereof, for the use of telephone, telegraph, electric light and other wires, or for other purposes, either by constructing the said conduits or authorizing their construction by others on such terms and conditions as the Common Council may impose, and to regulate and control the use of such conduits and prescribe and establish reasonable rentals to be paid by any person or company using any of said conduits by whomsoever the same may be constructed for the use thereof, and to provide for the collection of such rentals in addition to the ordinary processes by such summary methods as it may deem proper. If any such grant be made to any person, firm or corporation, such grantee shall not have the power to sublet the same or the use of the same to any person, firm or corporation engaged in selling, hiring, leasing or otherwise receiving any income from the business or purposes for which it desires to use such conduits without such person, firm or corporation first obtaining, as provided in

this act, a franchise for such business, purpose or use. The Common Council shall also have the power to cause persons engaged in the erection and maintenance of such wires and the wiring of buildings to submit plans and specifications in that regard to the city electrician for his approval thereof.

SETTLING OF ACCOUNTS BY CITY.

(Sec. 78.) Par. 28. The Common Council shall settle and allow all accounts and demands properly chargeable against said city, as well to its officers as other persons, and have authority to provide means for the payment of the same, and for defraying the contingent expenses of said city subject only to the limitations and restrictions in this act contained.

BONDS AND BONDED INDEBTEDNESS—PROVISION FOR PAYMENT OF.

(Sec. 79.) Par. 29. The Common Council shall in each year provide for the payment of the interest on the bonded debt and all other liabilities drawing interest, by taxation levied upon the real estate and personal property in the city not exempt from taxation by the general laws of the state, and upon all the personal property of residents of the city not exempt from taxation by such general laws, if other resources are insufficient, and it shall provide for the prompt payment of such indebtedness or other liabilities as they mature. The Common Council may issue new bonds for the purpose of meeting the principal of said matured bonds bearing interest at not to exceed five per cent. per annum, and not having more than twenty years to run, and dispose of the same, or it may in its discretion levy and collect a tax not exceeding two mills on a dollar, in any one year on the real and personal property in the city as aforesaid to apply on such bonded indebtedness.

BONDING FOR PUBLIC BUILDINGS.

(Sec. 80.) Par. 30. For the purpose of purchasing sites for and constructing a city almshouse, city hall, city market, or any other public building, or for constructing or rebuilding bridges or viaducts within the corporate limits of the city of Grand Rapids, the Common Council may borrow on the faith of the city such sums of money for any such purposes aforesaid, as it may deem expedient for a term not exceeding twenty years and at a rate of interest not exceeding five per cent. per annum, and for such purpose it may issue the bonds of the city signed by the Mayor and countersigned by the City Comptroller, in such form and sums as the Common Council may direct. Such bonds shall be disposed of under the direction of the Common Council of the city upon such terms as it deems advisable, but not for less than the par value thereof, and the avails shall be used for the purpose for which the same were issued and for no other purpose.

QUESTION OF BONDING TO BE SUBMITTED TO ELECTORS—EXCEPTIONS.

(Sec. 81.) Par. 31. Nothing in the preceding section shall be so construed as to authorize the incurring of any such bonded indebtedness against the city, except as otherwise expressly provided for in this act, unless the qualified electors of the city, voting in their respective wards upon the question of bonding the city for any such purpose at any regular election, or at a special election called for the purpose of voting upon such question, shall have authorized the incurring of such bonded indebtedness by a majority of their votes cast on any such question: Provided, That bonds issued for the purpose of renewal of

former bonds or loans and bonds issued to raise money for the current expenses of the city, authorized by this act, and street or sewer improvement or school bonds need not be submitted to the electors as aforesaid.

BONDS—YEARLY—CURRENT EXPENSES—PAID FOR BY ASSESSMENT.

(Sec. 82.) Par. 32. The Common Council may borrow temporarily on the faith of the city a sum not exceeding fifty thousand dollars in any one year, at a rate of interest not exceeding five per cent. per annum, for the purpose of paying that portion of the expenses and liabilities of said city for the current year, which, for any reason, the revenues thereof shall not be sufficient to meet, which said amount so borrowed shall be assessed and collected in the general assessment roll for the ensuing year, and for such purpose may issue the bonds of the city for a period not longer than one year, signed by the Mayor and countersigned by the Comptroller, and with the seal of the city affixed thereto, and in such form and for such sums, under the limitations herein contained, as the Common Council shall direct; and such bonds shall be disposed of under the direction of said Common Council, upon such terms as it shall deem advisable, but not for less than their par value, and the avails thereof shall be applied to the purposes in this section mentioned only.

BORROWING OF MONEY BY COUNCIL.

(Sec. 83.) Par. 33. It shall not be lawful for the Common Council, except as herein otherwise provided, to borrow money or authorize the creation of any liability or indebtedness against said city in any one year exceeding in the aggregate the amount which, by this act, may be raised by tax for such year, and in case any sum or sums of money shall be borrowed by the Common Council in any one year, or any officer thereof shall enter into any contract or contracts for the payment of moneys binding upon said city, the same shall be paid out of the sums raised by tax for such year, if the payment thereof is not otherwise provided, and all sums of money borrowed by said city shall be applied to the purposes for which the same was borrowed, and for no other purpose whatsoever; but nothing in this act contained shall be construed to prohibit said Common Council from making assessments and levying and collecting taxes for the purposes of local improvements.

TAXATION FOR MEETING LIABILITIES INCURRED BY CITY.

(Sec. 84.) Par. 34. For the purpose of defraying the expenses and meeting the non-interest bearing liabilities incurred by the city, and for highway and sewer purposes, and for the purpose of creating and replenishing the funds provided for in this act, the Common Council may raise annually by taxation levied upon the real and personal property in the city, not exempt from taxation by the general laws of the state, and upon all the personal property of residents of the city not exempt from taxation by such general laws, such sum as it may deem necessary, not exceeding one per cent. on the valuation of the real and personal property according to the valuation taken from the assessment rolls for the year preceding the levying of such tax; the sum or sums of money to be raised shall be proportioned between the several wards of the city in the manner in this act specified: Provided, That such limitation shall not apply to the raising of any sum of money necessary to be raised by taxation upon such real estate and personal property for the purpose of pay-

ing the principal of any bonded indebtedness of the city, arising from a loan for the term of a year or years, or the interest thereon, or both principal and interest according to the terms of such indebtedness.

BUILDINGS, FENCES, ETC., CONSIDERED DANGEROUS TO BE REMOVED BY ORDER OF COUNCIL.

(Sec. 85.) Par. 35. Whenever, in the opinion of the Common Council, any fence, building, erection of any kind, or any part thereof is liable to fall whereby persons and property are endangered, it may order the owner of the real estate upon which such building, fence or other erection stands, to take down the same, or any part thereof, within such time as it may require. In case such order is not complied with the city may cause the same, or any part thereof, to be taken down at the expense of the city on account of the owner, and assess the expense thereof on the real estate on which such building, fence, or erection stood, and enforce payment thereof in accordance with the provisions of Title VI. of this act. In case the owner of the real estate is a non-resident of the city, the order, if not immediate in its terms, may be served upon any occupant of the real estate, or if there is no occupant thereof, the same may be published in one of the official papers of the city for such time as the Common Council may direct, or posted in some conspicuous place on said premises.

CITY PRINTING—HOW TO LET.

(Sec. 86.) Par. 36. The Common Council of the city shall annually contract with the publisher or publishers of one or more daily or weekly newspapers published and circulated therein, to do the printing of said city, or some portion thereof, which contract shall be let, if to weekly newspapers, to the lowest bidder therefor, of the proprietor of the weekly newspaper or such weekly newspaper as the Council may select from such bidders; and if to a daily newspaper, to the lowest bidder therefor, of the proprietor of the daily newspapers in said city. It shall be discretionary with the Common Council to let one part of said printing to a weekly newspaper and other parts to a daily newspaper of said city. Such newspaper or newspapers, during the continuance of such contract shall be known as the official newspaper or newspapers of the city. In letting such contracts the Common Council shall have power to reject any or all bids therefor, whenever in the judgment of a majority of said Common Council the public interests of the city may require.

EVIDENCE OF TITLE TO REALTY—MAPS, ETC.

(Sec. 87.) Par. 37. It shall be the duty of the Common Council to adopt by ordinance or otherwise, such measures as it may deem expedient to perpetuate the evidence of title to real estate in said city, by the preservation of maps, plats, records and papers relating thereto or by duly certified copies thereof, which when certified to and filed as prescribed by ordinance or otherwise, shall be received in evidence in all courts and proceedings.

MARKET AND PUBLIC BUILDINGS AND GROUNDS IN CHARGE OF COUNCIL—EXCEPTIONS.

(Sec. 88.) Par. 38. The Common Council shall have charge and control of the market buildings and market grounds of the city and of all public buildings and the grounds thereof, and of all other public grounds and public places in the city (except public school buildings

and public school grounds or other properties, which under this act are especially given to the control of municipal boards of the city.) It shall be the duty of the Common Council to keep said buildings and the grounds thereof in such shape and repair as will conduce to the convenient and profitable use thereof. The Common Council shall have power to employ all needful help upon such grounds and places and in such buildings as it may deem necessary for the proper care and supervision of the same, and also expend such moneys in relation thereto as it may deem advisable.

FIREWORKS, GUNPOWDER, FIRE ARMS, ETC.—USE AND CARE OF— BONFIRES.

(Sec. 89.) Par. 39. The Common Council may regulate the buying, carrying, storing, selling and using of gunpowder and fire crackers and fireworks manufactured or prepared therefrom, and all other combustible or explosive substances; the exhibition of fireworks, the discharge of firearms, and the lights in barns, stables, and other buildings, and restrain the making of bonfires at any place within the limits of the city.

NIGHT WATCHMEN—HAZARDOUS BUILDINGS.

(Sec. 90.) Par. 40. The Common Council shall have power by ordinance or otherwise to require the owner or occupant of any building in the city, which is extra hazardous in respect to fire, to provide a night watchman for such building, at the expense of the owner or occupant, such night watchman to be on duty during such portions of the year and during such hours as the Common Council shall designate in any given case. If such owner or occupant shall refuse or neglect to pay for the service of such watchman for sixty days after the time for payment fixed by the Common Council has passed, the city may cause payment for such service to be made and the sum so paid shall be a lien upon the building and premises upon which it is situated until paid; and such sum shall be assessed upon such building or premises and collected in accordance with the provisions of this act for the assessment and collection of the expense of constructing and repairing sidewalks.

COLLECTION OF ASSESSMENTS.

(Sec. 91.) Par. 41. In all cases where the ordinances or resolutions of the Common Council shall require anything to be done in respect to the property of the several persons in the manner provided for in the preceding sections, the expense thereof may be included in one assessment and the several pieces of real estate, in respect to which the several expenses shall have been incurred, shall be briefly described in the manner required in the assessment roll for the general expenses of the city, the sum of money assessed to each owner of real estate shall be the amount expended in performing such work upon such real estate, together with a ratable proportion of the expenses of assessing and collecting the money expended in performing the work on said several pieces of real estate as aforesaid. The collection of the assessments specified in the preceding sections of this title shall be in made in accordance with the provisions of Title VI. of this act.

TITLE IV.

FRANCHISES AND MUNICIPAL OWNERSHIP.

GRANTING OF RIGHTS IN STREETS BY COMMON COUNCIL.

(Section 100.) Par. 1. The Common Council may by ordinance adopted by the affirmative vote of two-thirds of all the Aldermen elect, grant rights in, over, upon or under any street, alley or public place for the purpose of constructing or operating street railways, railways, or for telephoning or telegraphing, or transmitting electricity, or transporting by pneumatic tubes, or for constructing conduits, or for furnishing to the city or its inhabitants, or any portion thereof, water, light or heat, or for any other public purpose, but subject always to the limitations and conditions herein contained.

REFERENDUM—FRANCHISES AND GRANTS—WHEN PETITIONS AGAINST —SUBMITTED TO ELECTORS.

(Sec. 101.) Par. 2. No franchise, whether an original grant, extension or amendment shall become operative where a petition is filed with the city clerk within thirty days after the first publication of the ordinance granting the same, signed by not less than fifteen per cent. of the qualified voters of the city, as shown by the vote at the last preceding general city election, asking for submission of the question of granting such franchise to a popular vote, until such question shall be so submitted at a general city election or a special election called for that purpose. No grantee of a franchise or a privilege shall be entitled to assign or sublet the same, or allow any other to use the same without the consent of the city by ordinance duly passed, which ordinance shall be subject to the referendum provided for in this paragraph.

WHEN TO TAKE EFFECT—PRICE TO BE FIXED—LENGTH OF TIME— ADVERTISING OF—FORFEITURE.

(Sec. 102.) Par. 3. The maximum price for the service or charge shall be stated in said ordinance. No franchise shall be granted for a longer period than twenty years. No ordinance granting any franchise shall take effect within thirty days after the first publication thereof. In case the ordinance is an amendment to or is supplemental to an existing ordinance, such amended or supplemental ordinance shall terminate at the time limited in the original ordinance. No application for a renewal of an existing ordinance shall be made except during the last year for which said ordinance runs. No franchise shall be granted without fair compensation to the city therefor, and in addition to the other forms of compensation to be therein provided, the grantee may be required to pay annually to the city such percentage of the gross receipts arising from the use of such franchise and of the plant used therewith as may be fixed in the grant of such franchise. But this provision shall not exempt the grantee from any lawful taxation upon his property, nor from any licenses, charges

or impositions not levied on account of such use. All franchises shall be subject to taxation as an asset apart from the physical properties of such utilities. No franchise shall be granted which shall not by its terms go into effect within one year after its passage. Failure on the part of the grantee to place in actual operation the business covered by his franchise for one year shall work a forfeiture of such franchise. No perpetual franchise shall ever be granted.

TO ACQUIRE MUNICIPAL OWNERSHIP—MANNER OF PROCEDURE.

(Sec. 103.) Par. 4. Every grant of a franchise or right, and every contract therefor made or granted under the provisions of this charter shall provide that at the expiration of the term or period for which it is made or granted, or at any time before stated in the ordinance, the city, at its election, and upon the payment therefor of a fair valuation thereof to be made in the manner provided in the grant or contract, may purchase and take over to itself the property and plant of the grantee in its entirety; but in no case shall the value of the franchise of the grantee be considered or taken into account in fixing such valuation. Or such grant and contract may provide that such property shall become the property of the city without any compensation to the grantee at the expiration of said franchise; provided, however, that before the city shall have authority to take over such plant or property the question whether or not the city shall acquire or take such plant and property shall first be submitted to the voters of the city in accordance with the provisions of section 116, paragraph 17, of this Title.

Proceedings to take over such utility must be instituted within one year of the expiration of such franchise, or the period stated in said ordinance, and sufficient time before the expiration of such period so that if a special election is required to be held to pass upon such question, the same can be held at least six months prior to such period. Every grant reserving to the city the right to acquire the plant of said grantee shall further provide that upon the payment by the city of such valuation, the plant and property shall become the property of the city by virtue of the grant in payment thereunder, and without the execution of any instrument or conveyance. Every franchise ordinance shall contain adequate provision by way of forfeiture of the grant, or otherwise, for the effectual securing of sufficient and efficient service, and for the maintenance of the property in good order and repair throughout the term of the grant.

CITY MAY SUB-LET OR LEASE—LENGTH OF TIME.

(Sec. 104.) Par. 5. If by virtue of the foregoing provisions any plant shall become the property of the city of Grand Rapids, the city shall have the option either to take and operate the same on its own account, or to lease the same for a period not exceeding twenty years under such rules and regulations as the council may prescribe, or to sell the same to the highest bidder at public sale; provided such proposition of sale shall be submitted as provided in section 116, paragraph 17, of this Title.

OFFICIAL PUBLICATION OF.

(Sec. 105.) Par. 6. Every ordinance by which the Common Council shall propose to grant any franchise shall contain all the terms and conditions of the franchise to be granted, and shall be published verbatim in an official paper of the city at least once a week for six successive weeks before taking effect.

COMMON COUNCIL POWERS TO REGULATE AND CONTROL.

(Sec. 106.) Par. 7. The Common Council shall have the power to regulate and control the exercise by any corporation of any franchise exercised on, in and over the streets or public places of the city whether such franchise has been granted by the city or by and under the laws of Michigan.

ANNUAL STATEMENTS TO BE FILED—PENALTY.

(Sec. 107.) Par. 8. Every corporation or person exercising any franchise in the city of Grand Rapids shall file annually on the first Monday in April in the office of the city clerk a statement subscribed and sworn to by at least two officers of such corporation, or by the individual in control, setting forth in detail for the preceding calendar year the then actual cost of the plant or business operated by such corporation or persons, the actual encumbrances, debts or obligations thereon, if any, the amount of stock issued and to whom issued, and the consideration therefor, the gross earnings, the expenses and nature thereof and the net income after deducting all proper costs and expenses, the names and residences and the amount of stock of all stockholders, and if any bonds have been redeemed and not cancelled, that fact shall also be stated. Every such corporation or person who fails to comply with the provisions of this section shall be liable to the city in the sum of one hundred dollars for each day of such failure, to be recovered in an action of assumpsit in the Superior Court, and at the end of sixty days, if such default shall continue, shall forfeit such franchises.

ACCEPTANCE OF FRANCHISE—WHERE TO BE FILED.

(Sec. 108.) Par. 9. Every grantee of every franchise shall file in the office of the city clerk a written acceptance of the same within sixty days of the time said franchise is granted by the Common Council, or within thirty days from the time the same is approved by the people if voted upon, and in default thereof, all rights under said franchise shall lapse; such acceptance shall be unqualified and shall be construed to be an acceptance of all the terms, conditions and restrictions contained in the ordinance granting the same, as well as the provisions of this charter.

MAINTENANCE AND REPAIRS OF STREETS.

(Sec. 109.) Par. 10. Street railway and other railway and tramway franchises shall provide that the grantee shall keep those portions of the streets and other places occupied by said railways in good repair and as required by the Council, and shall plank, pave, repave, reconstruct, or otherwise improve, or repair or maintain in good condition, and in the manner directed by the Common Council, the whole, or any portion of the streets along or over which said railway shall be constructed lying between the rails of any track thereof, and extending one foot outside of such rails, and also the portion lying between any two tracks; or it may be stipulated in the franchise ordinance that the grantee shall pave, re-pave and keep in repair, as required by the Council, the streets used by such road from curb to curb.

JOINT USE OF TRACKS, ETC., PROVIDED.

(Sec. 110.) Par. 11. Every franchise ordinance to a street or tram railway, or to a railroad using the streets of said city, shall provide that any other railroad company may use said track or tracks

in common with the grantee upon obtaining the consent of the council expressed by ordinance, each paying an equitable and proper portion for the construction and repair of the tracks and appurtenances used by such railroad companies.

FIXING OF RATES BY COMMON COUNCIL OR ARBITRATION.

(Sec. 111.) Par. 12. Every grant of a franchise which provides for the changing of rates, fares and charges shall contain a provision fixing the maximum rate of fares, rates and charges, which the grantee, his, its or their successors or assigns can charge or collect for services rendered or performed by virtue of and during the life of such franchise and the operation of his or its plant or property thereunder; and said grant may also, or in addition, provide that the Council reserve the right to thereafter from time to time change, alter, regulate and fix fares, rates or charges which the grantee, his, its or their successors or assigns can charge or collect thereunder during the life of such grant or franchise. This may be done by direct action of the Common Council or by reference to arbitrators. But such price shall be fair and reasonable to the grantee and the public.

WAIVERS.

(Sec. 112.) Par. 13. The Council cannot waive any of the provisions of this Title. In case a franchise does not cover the provisions herein contained, such omission shall not be considered a waiver thereof. All the provisions of this Title shall be considered a part of every franchise hereafter granted, and of all renewals or extensions of franchises.

MUNICIPAL OWNERSHIP.

(Sec. 113.) Par. 14. The Council shall have power to acquire by purchase, or to construct and maintain water works, electric light works, gas works, steam, water or electric power works, steam or hot water or electric heating works, telephone and telegraph lines, street railway tracks, subways and conduits, bridges, viaducts, wharves, and docks, markets and market houses, garbage collection and garbage disposal and reduction plants, and such other public utilities as the Council may designate, and to acquire all property, real or personal, necessary therefor, and to maintain and operate the same, or lease the same to other corporations or individuals for the purpose of maintenance and operation.

ACQUIRING OF PUBLIC UTILITY—ESTIMATE ON—PUBLICATION OF.

(Sec. 114.) Par. 15. Before acquiring any public utility not owned by the city at the time this act takes effect, the Council must by a two-thirds vote of all members elect, procure through the board of public works, plans and estimates of the cost of construction and completion of any public utility proposed to be acquired. The estimated cost so ascertained shall be published in one of the official papers of the city once a week for six successive weeks before any further steps are taken.

OFFERS FOR SALE OF—SUBMITTING TO ELECTORS—BOND.

(Sec. 115.) Par. 16. The Council shall thereupon and before submitting the proposition to the electors as hereinafter provided, solicit, and consider offers for the sale to the city of existing utilities,

if any, covering the subject matter. The Council shall have authority to enter into a provisional agreement for the acquisition of any such existing utility, but such provisional agreement shall not be adopted by the Council until all the terms and conditions thereof have been published in the same manner as provided in the preceding section; and its adoption by the Common Council shall be subject to ratification by vote of the people, as hereinafter provided. Before such provisional agreement is submitted, a good and sufficient bond running to the city, to be approved by the Council, shall be exacted from the party thus agreeing to contract with the city, conditioned for the fulfillment of such provisional contract in case it is approved by the people.

DURATION OF PUBLICATION—COUNCIL MAY ACT BY ORDINANCE—VOTE OF PEOPLE.

(Sec. 116.) Par. 17. In case a proposition is secured from the owner or owners of such utility, and such bond is filed, or in case the Council fails to secure such proposition within thirty days from the last publication of the estimate, or in case there be no such utility in actual operation, the Common Council may take final action by ordinance, determining to acquire or construct the particular utility under consideration; provided, however, that before such ordinance be binding upon the city, it shall be submitted to a vote of the qualified electors for ratification or rejection at the next general city election, or a special election called for that purpose. No ordinance so submitted to a vote of the people shall embrace more than one of the purposes enumerated in paragraph 14 of this Title, but several ordinances may be submitted separately at any one election. If an issue of bonds by the city shall be necessary to carry out any proposition so submitted, the question of the issuance of such bonds and the amount thereof may be submitted as a part of the proposition. Or such bonding proposition may be submitted at a later general or special election. A majority of the electors voting thereon shall be necessary to ratify such ordinance or to authorize said bonds.

ORDINANCES BY COUNCIL TO BE CARRIED INTO EFFECT SAME AS CONTRACTS.

(Sec. 117.) Par. 18. The ordinance of the Common Council, if ratified by the people, shall be carried into effect in accordance with the regulations as to contracts in this charter; and if an issue of bonds be required, said issue shall be made in accordance with this charter.

PURCHASE PRICE AND MANNER OF PAYMENT LIMITED.

(Sec. 118.) Par. 19. In case it is proposed to obtain by purchase an existing plant, the Common Council shall not in the provisional agreement, agree to pay, nor shall it pay for such plant more than ten per cent. in excess of the estimated cost of reproducing such plant at the time of such purchase. Where a provisional agreement has been made and ratified by a vote of the people, the Common Council shall not expend for the purpose set forth in such agreement a sum in excess of the sum therein named.

SALE OF ANY MUNICIPAL PLANT—TO BE PUBLISHED—SUBJECT TO VOTE OF PEOPLE.

(Sec. 119.) Par. 20. No municipal service plant owned by the city, whether acquired prior to the adoption of this charter or thereafter, shall be sold, leased, or otherwise disposed of, by the city

unless the full terms of the proposition of said sale, or other disposition thereof, together with the price to be paid therefor, shall have been published in one of the official papers of said city once a week for six successive weeks before final action of the Common Council, and submitted to a vote of the people for ratification or rejection at the next city election or at a special election for that purpose and ratified by a majority of all the electors voting thereon.

RECORD OF ACCOUNTS TO BE KEPT IN DETAIL.

(Sec. 120.) Par. 21. The books of account shall give a clear and unmistakable record of the financial history of such utility, including the original cost of construction, the cost of maintenance and repair in detail, the amount of taxes such property would have paid each year upon a fair valuation if in private hands, the amount of interest paid on bonds issued to supply funds for the construction or maintenance of such utility, an estimate of the amount of rent chargeable against such utility by reason of the occupancy and use of any public buildings not belonging to it for office or other purposes, the income of such utility from all sources, the estimated amount due to such utility for services rendered to the city at large or to any of its departments for which no pay or only part pay is received, and all other facts, figures and estimates required to show the exact financial status of such utility as near as may be at the close of each municipal year with reference to profit or loss in its operation.

MERIT SYSTEM—MAY BE ADOPTED—DEFINITION OF.

(Sec. 21.) Par. 22. The Common Council may by ordinance adopt the merit system in the employment or discharge of any or all of the employees in any public utility. The adoption of such system shall be by ordinance defining the manner in which applications for said employment shall be filed and the kind and character of examinations of applicants for such employment.

TITLE V.

POWERS AND DUTIES OF CITY OFFICERS.

MAYOR TO SEE THAT LAWS ARE ENFORCED.

(Sec. 127.) Par. 1. It shall be the duty of the Mayor to take care that all the laws of the State and the ordinances of the Common Council are faithfully executed. To make or cause to be made complaint to the proper court for any violation of the State laws, or of this act or the city ordinances, and if there is any violation of law or disturbance beyond the power of the city police force and the sheriff's force of the County of Kent to quell, he shall call upon the Governor of the State for such assistance from the State as may be necessary to enforce law and order. To exercise a constant supervision and control over the conduct of all subordinate officers and to receive and examine into all complaints against them for neglect of duty; to recommend to the Common Council such measures as he shall deem expedient, to expedite such as shall be resolved upon by them, and in general, to maintain peace and good order and advance the prosperity of the city.

DUTIES OF ALDERMEN—EXEMPTION FROM JURY DUTY.

(Sec. 128.) Par. 2. It shall be the duty of every alderman in said city to attend the regular and special meetings of the Common Council; to act upon committees when appointed thereon by the Mayor or Common Council; to report to the Mayor all subordinate officers who are guilty of any official misconduct or neglect of duty, and to perform all other duties required of him by this act. The Aldermen shall be exempt from sitting as jurors in any of the courts of this State.

CLERK—DUTIES OF: CUSTODY OF SEAL—PAPERS—COUNCIL AND LICENSE RECORDS—ADMINISTRATION OF OATHS.

(Sec. 129.) Par. 3. The clerk shall keep the corporate seal and all papers belonging to the city as a corporation not properly by this act in the custody of some other officer and he shall perfect a printed record of the proceedings of the Common Council which may in any court or elsewhere be used as evidence of what such proceedings are. It shall be his duty to attend the meetings of the Common Council, and copies of all papers duly filed in his office and transcripts from the records of the Common Council certified to by him, or one of his deputies in his name, under the corporate seal, shall be prima facie evidence in all places of the matters therein contained. He shall countersign all licenses granted for any purpose whatever by the Mayor or Common Council, and shall enter in an appropriate book the name of every person to whom a license shall be granted, the number of such license and the date thereof, and the time during which it is to continue in force, and the sum paid for such license. The City Clerk is hereby authorized to administer all oaths required to be administered under the provisions of this act, but he shall receive no compensation therefor.

PUBLICATION OF ORDINANCES—RESOLUTIONS ETC., DIRECTING PAYMENT OF MONEY.

(Sec. 130.) Par. 4. The city clerk shall cause to be printed all ordinances of the Common Council at least four times in one of the official newspapers, and all votes and resolutions directing the payment of money shall be published at least once in one of said newspapers within eight days after the passage of the same. He shall perform such other duties as this act shall direct or which may be required by the Common Council.

WARRANTS ON CITY TREASURER—RECORDS TO BE KEPT BY COMPTROLLER.

(Sec. 131.) Par. 5. All moneys drawn from the city depositary for city purposes, shall be drawn by warrants signed by the Clerk and countersigned by the comptroller of said city. All warrants drawn on the City Treasurer for city purposes shall be drawn in pursuance of an order from the Common Council which warrants shall be signed by said City Clerk and countersigned by the comptroller of said city, and every such warrant shall specify for what purpose the amount therein named is paid, and out of which particular fund payable, and the comptroller shall keep an accurate account, under appropriate heads, of all expenditures, orders and warrants drawn upon the City Treasurer in books to be kept for that purpose, which books shall be furnished by the city, belong to and be a part of its public records.

WARRANTS ON CITY DEPOSITARY.

(Sec. 132.) Par. 6. On the order of the Common Council it shall be the duty of the City Clerk, after the expiration of at least twenty-four hours next following any regular or special session of the Common Council, at which any claim or demand against the city has been allowed, to draw a warrant or check on the city depositary for the aggregate sum of all claims and demands against said city allowed at any such regular or special session of the Common Council, which said warrant or check shall be signed by said city clerk and countersigned by the comptroller of said city, and be made payable to the order of the treasurer of said city: Provided, That no item or items of such claims or demands shall be included in such aggregate or in the warrant or check drawn therefor, to the allowance of which by the Common Council the Mayor shall have interposed his veto, in the manner provided for in this act; nor shall any item or items of such claims or demands for the payment of which there are not sufficient funds out of which the same may be lawfully paid, be included in such aggregate, warrant or check. The city treasurer shall draw from the city depositary the amount called for by such warrant or check and use the same to pay said claims and demands in the manner provided in this act.

COMPTROLLER TO MAKE REPORT TO COMMON COUNCIL.

(Sec. 133.) Par. 7. The city comptroller shall at the first regular meeting of the Common Council of said city in each month report in writing to said Common Council all appropriations and payments made out of the several funds of the city, or other disposition of the same, and the amount of all warrants drawn as aforesaid upon him which have not been called for within thirty days after the countersigning of such warrants together with the name of the person to whom each of said warrants is payable, and out of what city funds it is payable. Upon receipt of such report the said Common Council shall

have power to order the cancellation of such warrants not called for and to instruct the city treasurer to forthwith deposit in the city depository the aggregate amount of such warrants covered by such monthly report: Provided, That any such cancellation shall not be taken or held to impair or render void the legality of any such claim or demand.

COMPTROLLER HEAD OF AUDITING DEPT.—TO PREPARE BLANKS, CHECKS ETC., FOR ALL OTHER DEPTS., INCLUDING WATER WORKS AND BOARD OF EDUCATION.

(Sec. 134.) Par. 8. The city comptroller shall be the head of the accounting department, and, save as otherwise provided in this act, or in the laws of the State of Michigan, he shall keep all accounts and statistics of the several city departments, including the water department and the Board of Education of the City of Grand Rapids. The comptroller shall, from time to time, prepare and issue forms for the accounts, reports, bills, vouchers, orders, receipts and checks to be used by the several departments of the city government, and by the officers of said Board of Education in the transaction of all such parts of the public business as concern the public finances, and after such documents are approved by the Common Council it shall be the duty of such board or officer to use the same. The wilful failure or refusal by any officer to use any such form in the transaction of business for which the same was designed to be used shall be deemed misconduct in office on the part of such officer, and subject him to removal, under the provisions of Title II, Par. 9.

COMPTROLLER TO KEEP ACCOUNTS, ETC.

(Sec. 135.) Par. 9. The comptroller shall keep regular books of account in which shall be entered all indebtedness of the city, and which shall at all times show the precise financial condition of the city; the amount of bonds, orders or other evidence of indebtedness lawfully issued; the amount of the same which has been paid, and the amount of each thereof outstanding. He shall countersign all bonds and other evidence of the city's indebtedness, and keep an exact account and record of each instrument, stating to whom and for what purpose the same has been issued; he shall keep the accounts with all receiving and disbursing officers of the city, or the Board of Education, showing the amounts received by them from each of the various sources of revenue, and the amounts which they have disbursed under resolutions or ordinances of the Common Council or other legal mandate. The comptroller shall at all times have access to all reports, books, vouchers and accounts in each of the several departments, and to those of the Board of Education, and it shall be his duty to frequently inspect the same in order to insure the keeping of the same properly and in the mode contemplated by law and this act.

BOND OF COMPTROLLER.

(Sec. 136.) Par. 10. The comptroller, previous to entering upon the duties of his office, shall enter into a bond in such sum and with such sureties as the Common Council shall fix and approve in writing endorsed thereon, which bond shall be filed in the office of the city clerk. The Common Council is hereby authorized to require a new or additional bond from the comptroller at any time when it shall deem the interests of the city require it.

CLAIMS AND ACCOUNTS, AUDITING AND PAYMENT OF.

(Sec. 137.) Par. 11. The comptroller shall receive and audit the claims, accounts and demands of all persons against the city. All claims and accounts shall be itemized. And every such claim, account or demand shall be sworn to by the person presenting the same in the manner required herein and shall be certified to as correct by the officer, board or chairman of the committee upon whose authority the contract or liability for such claim or demand is based or originated, provided the same arose upon such authority; provided, also, that city officials drawing stated salaries are not required to verify their bills for services. The common council may pay all claims, accounts and demands so examined and reported to it by said comptroller. But unless a claim is approved by the comptroller, the Council cannot order its payment except by the affirmative vote of three-fourths of all the Aldermen elect. Said comptroller shall keep an accurate account of all claims, accounts and demands so recommended by him as well as a separate account of all claims, accounts and demands which he shall receive and which are rejected by him after examination thereof.

REPORTING CLAIMS TO COUNCIL BY COMPTROLLER—FILING OF BILLS.

(Sec. 138.) Par. 12. In his report to the Common Council the comptroller shall separate all claims for special improvements from general claims; also all claims payable out of special funds when there is no money in such funds to satisfy the same. All papers, bills and vouchers for such claims, accounts and demands recommended and reported by him to the Common Council, after the same shall have been accepted, adopted and finally disposed of by the Common Council, shall be placed on file in his office, and it shall be his duty to keep the same in good and proper order, subject however, to such direction as the Common Council may thereafter make in relation thereto.

ORDERS FOR PAYMENT OF MONEY TO BE DRAWN BY COMPTROLLER.

(Sec. 139.) Par. 13. Said comptroller shall countersign all orders for the payment of money out of the city depository or depositories and all orders from the city treasurer and the same shall be drawn and delivered by him at his office and he shall perform such other duties as are prescribed in this act, or as the Common Council may by ordinance or otherwise prescribe.

CONTRACTS TO BE EXECUTED IN TRIPLICATE.

(Sec. 140.) Par. 14. All contracts executed by the city shall be in triplicate, one copy thereof to be filed with the comptroller and one with the city clerk.

TREASURER TO RECEIVE ALL SCHOOL AND OTHER MONEYS—DEPOSIT SAME AND KEEP ACCOUNT OF RECEIPTS AND EXPENDITURES OF CITY.

(Sec. 141.) Par. 15. The city treasurer shall receive all moneys belonging to the city, and moneys paid in for school purposes, and shall deposit the same daily in the city depository or depositories selected by the Common Council, except when otherwise required by this act. School moneys shall be used for school purposes only, and shall not be transferred by the Common Council to any other fund. Said city treasurer shall keep an account of all receipts and expenditures of said city in such manner as the Common Council shall direct, in proper

books of account, to be provided by the city, which books shall constitute a part of the public records thereof. The city treasurer shall in respect to the school moneys received by him perform all the duties and be subject to all the liabilities that the township treasurers of the State are now or in the future shall be subject to by law in respect to the keeping and paying out of moneys collected for school purposes.

TREASURER—DUTIES OF—REPORTS TO COUNCIL—FRANCHISE FEES.

(Sec. 142.) Par. 16. The city treasurer shall keep an office which shall be provided and furnished for him by said city and he shall devote his whole time to the duties of his office. He shall at the first regular meeting of the Common Council in each month make a report to the Common Council of the finances of said city, showing the exact condition of the several funds thereof. It shall be the duty of the treasurer to keep a list of all franchise and other similar fees, and to attend to the prompt collection of the same.

BOOKS AND ACCOUNTS OF TREASURER TO BE OPEN TO PUBLIC— ANNUAL REPORT.

(Sec. 143.) Par. 17. The books and accounts of the city treasurer shall be open to the inspection of any elector of said city. The city treasurer shall exhibit to the Common Council on the first day of April in each year a full and fair account of the receipts and expenditures of said city, and of all moneys coming into his hands by virtue of his office since the date of his last annual report, and also the state of the treasury of said city, which account, if found correct, shall be filed in the office of the city clerk.

TREASURER NOT TO LEND OR DEPOSIT MONEY EXCEPT AS AUTHORIZED BY LAW.

(Sec. 144.) Par. 18. Except as in this act otherwise provided, the city treasurer shall not lend, use nor deposit any of the moneys received by him as such treasurer, or any part thereof, to or with any bank, banker, corporation or person, nor shall he pay out any part of such moneys nor allow the same to pass out of his custody except as authorized by law or this charter. If the treasurer shall violate any of the provisions of this section he shall be deemed guilty of misconduct in office and be liable to removal therefrom under Title II, Par. 9.

TREASURER TO MAKE DUPLICATE RECEIPTS.

(Sec. 145.) Par. 19. The treasurer on receiving any money into the treasury shall make out and sign two receipts for the same. Such receipts shall be alike, except that upon the face of one shall appear the word "original" and upon the face of the other shall appear the word "duplicate." Such receipts shall be numbered and dated, and shall specify the amount, on what account and from what person or officer received, and into what fund or on what account paid. The treasurer shall enter upon the stubs of such receipts a memorandum of the contents thereof, and deliver the receipt marked "original" to the person or officer paying such money into the treasury, and forthwith deliver the receipt marked "duplicate" to the comptroller, who shall write upon its face the date of its delivery to him, and charge the treasurer with the amount specified therein, and file the receipt in his office.

TREASURER TO BE SOLE RECEIVING AND DISBURSING OFFICER.

(Sec. 146.) Par. 20. It is the purpose of this legislation to make the treasurer of the city the sole money receiving and disbursing officer of the corporation, and of its officers, agents, and of its boards including the Board of Education and the Board of Public Works. Whenever any other officer, agent or board shall be required to issue any license, permit, water or other bill, order or voucher contemplating the payment of money, instead of receiving such money, said officer, agent or board shall issue such license, permit, bill, order or voucher marked or stamped "Not good until presented to the city treasurer, and the amount indicated paid him and his receipt therefor stamped or signed hereon," or words to that effect. The money shall then be paid to the treasurer and a duplicate receipt issued as aforesaid.

PENALTY FOR FAILURE TO PAY MONEY TO CITY TREASURER.

(Sec. 147.) Par. 21. Any officer or agent of this city or other person who shall receive or have in his hands any money belonging to the city, shall immediately pay the same to the treasurer and a receipt thereof in duplicate shall be issued, and one of the receipts shall be delivered to the comptroller by the treasurer. If any such officer, agent or other person shall wilfully fail to pay to the treasurer any money so received, for more than forty-eight hours after the money shall have been received by him, such officers, agent or other person shall forfeit to the city double the amount of money so received, to be recovered by civil action brought by the city against him in a court of competent jurisdiction.

COUNCIL TO ADVERTISE FOR PROPOSALS FOR DEPOSITARY.

(Sec. 148.) Par. 22. The Common Council of said city shall on the first Monday of April next preceding the termination of any existing contract, or within ten days thereafter, advertise in one of the newspapers of said city for a period of at least one week after the first insertion of such advertisement, for sealed proposals for the highest rate of interest obtainable on daily balances of money belonging to the city, or the Board of Education, or in their custody, and the lowest rate of interest to be paid by said city for such temporary loans as it shall desire to make.

CONTRACT WITH BANKS AS CITY DEPOSITARIES.

(Sec. 149.) Par. 23. The Common Council shall have power to contract with any safe and secure banking institution or institutions, and to make rules and regulations in regard to the depositing of money therein, for a period of not to exceed three years, as a depositary or depositaries for the safe keeping of the public moneys belonging to or in the custody of said city, or any of its boards, including the Board of Education, and for the payment of interest thereon at a rate not exceeding that established by law upon such moneys of the city so deposited with such banking institution or institutions, to be drawn from the current account by said city through its proper officer or officers, which said interest shall belong to the city, or the Board of Education, as the case may be. Every such contract with a banking institution shall contain an agreement on the part of such institution permitting the Common Council, whenever it shall deem that the interests of the city require it, to terminate such contract and to withdraw all moneys deposited with such institution or institutions and in such case the books required to be kept by such depositary shall be

delivered into the custody of the city clerk by it. The Council shall require such depositary or depositaries to give suitable bonds in such penalty as it shall determine, and with such sureties as it shall approve, before any transfer of any such moneys as aforesaid can be made to such depositary or depositaries.

BOOKS TO BE KEPT BY CITY DEPOSITARIES.

(Sec. 150.) Par. 24. The depositary or depositaries so designated by the Common Council shall keep an accurate account in a set of books of all moneys belonging to or in the custody of said city deposited with such depositary or depositaries, such books to be provided by and belong to said city, and constitute a part of the public records of said city. Such books shall at all times during business hours be subject to inspection by any member of the Council, Board of Education, the comptroller, treasurer, mayor and city attorney. They shall be delivered by the outgoing depositary or depositaries to those succeeding to the trust. Such depositary or depositaries shall report in writing monthly to the Common Council of said city the amount of moneys belonging to said city then on deposit with such depositary or depositaries.

ADDITIONAL BONDS FROM TREASURER AND CITY DEPOSITARIES.

(Sec. 151.) Par. 25. The Common Council is hereby authorized to require new or additional bonds or security from the city treasurer and from the depositaries of money belonging to the city, or in the custody of the city, and deposited in such depositaries, at any time or times when it shall deem the interests of the city require.

DUTIES OF CITY ATTORNEY AND ASSISTANTS.

(Sec. 152.) Par. 26. The city attorney must attend the sessions of, advise and shall be subject to the direction of the Common Council. He shall have control of all actions, suits or proceedings in any court, State or Federal, in which the city is interested, and must attend to the prosecution of every person or persons charged with violation of any city ordinance or any regulation adopted under the authority of this Charter, and all suits or proceedings in which the Board of Education of the city is in any way interested, either as plaintiff, complainant or defendant, and to any prosecution for the violation of any regulation adopted by any of the boards of the city, created under this Charter, or by ordinance of the Common Council. He shall perform such other duties as usually devolve upon the corporation counsel of a city. He shall perform such duties of a professional character and exercise such powers connected therewith in matters in which the city is interested as shall be assigned to him by the Common Council, the officers of said city and the several boards thereof. The Common Council shall provide and suitably furnish for him and his assistants such offices as may from time to time be necessary. Upon his election to office or as soon thereafter as may be necessary, he may appoint a first and second assistant city attorney and also such clerical assistants as may from time to time be necessary; such first and second assistant city attorneys and such clerical assistants may be removed by him at will, but their salaries shall be determined and fixed by the Common Council. Such assistant city attorneys shall perform such duties as shall be assigned to them by the city attorney or by the Common Council.

DUTIES OF CITY MARSHAL.

(Sec. 153.) Par. 27. The city marshal shall report monthly to the Common Council the condition of the streets, highways, alleys, lanes, courts, public places, public grounds, sidewalks and public sewers, and if any of them are out of repair, make report of that fact with the nature of the defect and the place where located, together with an estimate of the expense of repairing the same. The Common Council on receiving such report may direct him to make or cause to be made the necessary repairs and shall provide the means therefor, and direct him to charge the same to the adjoining property. If the defects are of such a nature as to be immediately dangerous to persons or property, it shall be his duty to cause such repairs to be made immediately and report the same to the Common Council at its next meeting thereafter, together with the expense thereof certified to by him, and the Common Council shall provide means for the payment thereof, and in cases where authorized by the provisions of this act may direct such expense to be charged to the adjoining property.

MARSHAL TO REPORT ACCOUNTS OF EXPENDITURES, ETC.

(Sec. 154.) Par. 28. All accounts of expenditures made by said marshal in the performance of the duties prescribed by the preceding section shall be certified by him and be made in triplicate, one of which shall be filed in his office and the others in the offices of the treasurer and comptroller respectively. Such accounts shall be reported to the Common Council at its next regular meeting after such expenditures shall have been made. It shall be the duty of said marshal to keep a record under appropriate heads in a suitable book or books furnished him by said city, of all expenditures made by him under the provisions of the preceding section, which said books shall belong to and be a part of the public records of said city. He shall perform such other duties as are required by this act or as may be from time to time required or prescribed by ordinance or resolution of the Common Council. The marshal shall act as the attending officer and sergeant at arms at all meetings of the Common Council.

DUTIES OF CITY PHYSICIAN AND OTHER OFFICERS.

(Sec. 155.) Par. 29. The city physician and all other officers of the city, where not otherwise provided by this act, shall perform such duties and file such bonds as the Common Council may by ordinance or otherwise direct.

SALARIES OF CITY OFFICERS AND EMPLOYEES.

(Sec. 156.) Par. 30. The Common Council shall annually determine the salary or compensation to be paid to the several officers of said city within the limitations herein prescribed, and which limitations shall be as follows: To the city clerk, two thousand five hundred dollars per annum; to the city treasurer two thousand five hundred dollars per annum; to the city marshal, one thousand three hundred dollars per annum; to the mayor, two thousand dollars per annum; to the city comptroller two thousand five hundred dollars per annum; to each of the aldermen three hundred fifty dollars per annum; to the city attorney, three thousand dollars per annum, said salaries to be fixed by the affirmative vote of at least two-thirds of all the aldermen elect; and the Common Council may establish and prescribe the fees or salaries to be paid to all other officers, clerks or employes of said city, whose fees or salaries are not prescribed by law or otherwise provided for in this Charter.

HIGHWAY COMMISSIONERS TO GIVE BONDS.

(Sec. 157.) Par. 31. Every person chosen highway commissioner as provided by this act shall execute a bond to the city in the sum of one thousand dollars with at least two sufficient sureties to be approved by the Common Council of said city, for the faithful performance of the duties of his office and for the faithful accounting of all moneys belonging to said city which may come into his hands.

OATHS AND ACCEPTANCES OF OFFICERS.

(Sec. 158.) Par. 32. All elective and appointive officers of said city shall take and subscribe the constitutional oath of office and file the same in the office of the city clerk of said city, before entering upon the duties of their respective offices, where the same shall remain as a part of the official records of said city.

DEPUTIES AND CLERKS FOR CLERK, TREASURER, COMPTROLLER AND MARSHAL.

(Sec. 159.) Par. 33. The clerk, treasurer, comptroller and marshal shall respectively appoint deputies of their offices, each of whom shall possess all the powers and authority of their respective offices, and may exercise all the duties thereof subject to the control of such officers. Upon the written recommendation of such officers the Common Council shall furnish, when in its opinion necessary, such other assistants and clerks as from time to time may be required for the proper discharge of the duties of their respective offices: Provided, That the Common Council shall have authority to limit the number of assistants, clerks and employes in each of said offices. The said clerk, treasurer, comptroller and marshal shall be responsible for the acts and defaults of their respective deputies, and may remove such deputies at their pleasure.

TITLE VI.

STREET AND PUBLIC IMPROVEMENTS.

SUPERVISION OF STREETS, ALLEYS, ETC., BY COMMON COUNCIL—WHEN TO BE RECORDED AS PUBLIC THOROUGHFARES.

(Sec. 166.) Par. 1. The Common Council, except as herein otherwise provided, shall have the care and supervision of the highways, streets, bridges, lanes, alleys, parks, courts, public places and public grounds in the city and it shall be its duty to give directions for the repairing, preserving, improving, cleaning and securing of such highways, streets, bridges, lanes, alleys, parks, courts, public places and public grounds, and cause the same to be repaired, cleansed, improved and secured from time to time, as may be necessary; to regulate the highways, streets, bridges, lanes, alleys, parks, courts, public places and public grounds already laid out, or which may hereafter be laid out or built, and to alter such of them as it may deem inconvenient, subject to the restrictions contained in this title; to cause such of the highways, streets, lanes, alleys, parks, courts, public places and public grounds in the city as shall have been used for six years or more as public highways, streets, lanes, alleys, parks, courts, public places and public grounds and which are not sufficiently described, or have not been duly recorded in the office of the city clerk in the book of street records, to be ascertained, described and recorded in the office of the city clerk, and also in the office of the Register of Deeds of Kent County. The record of such highways, streets, lanes, alleys, courts, public places and public grounds so ascertained and described, or which shall hereafter be laid out and established by the Common Council, shall be presumptive evidence of such highways, streets, lanes, alleys, parks, courts, public places and grounds therein described.

IMPROVEMENTS TO BE DECLARED NECESSARY BY COUNCIL—DISTRICTS TO BE ASSESSED—EXCEPTIONS FOR INTERSECTING STREETS—MANNER OF PAYMENTS ISSUING OF BONDS.

(Sec. 167.) Par. 2. Whenever the Common Council shall determine that the whole or any part of the expense of any public improvement shall be defrayed by an assessment upon the owners of real estate to be benefited thereby, it shall declare the same by an entry in its minutes, and after having obtained an approximate estimate of the expense of any such improvement, it shall declare by an entry in its minutes what proportion thereof shall be assessed to such property owners, specifying the whole sum to be assessed and the portion of the city which it deems benefited by such improvement.

The cost of the grading, paving or improving of that portion of the streets, highways, lanes or alleys included within the intersecting lines of the same shall be paid by the city at large from its general fund, excepting any part of the same chargeable to the street railway company. Provided, That where a street, avenue, lane, or alley shall, after January 1, 1905, be graded or improved and paid for by a district including the property owners benefited thereby within the vicinity of

such improvement, and it shall become necessary that a subsequent improvement thereof either by way of grading, graveling, curbing, paving, or other substantial work, be made therein, one-half part of the expense of such subsequent improvement, not including the proportion to be paid by the street railway company, but including the intersections of streets, lanes, and alleys to be paid by the city as above provided, shall be paid by the city at large from its general fund, and only the remaining part or portion of the cost of such second improvement, less the amount to be paid by the street railway company, shall be charged up against any special district that may be created by the Common Council for the payment of the expense of said second improvement if such district is found benefited to such an amount, according to the benefits received by the several property owners therein. The cost and expense of making the estimates, plans and assessments incidental thereto shall be included in the expense of such improvement.

The Common Council is hereby authorized to meet the expense of the following named improvements in the following manner:

First: For the purpose of meeting the expense of improving streets, highways, avenues, lanes, alleys, courts, public places and public grounds of said city, by paving, grading, graveling or otherwise, and for the construction of public sewers therein, in anticipation of the collection of assessments and taxes to defray the expense and cost thereof, the Common Council may by resolution authorize and direct the mayor, comptroller and clerk of said city to borrow a sum not exceeding three hundred thousand dollars, in any one year, for such purpose, and to issue the bonds of said city therefor, bearing interest at the rate of not exceeding five per cent. per annum, with interest coupons attached, which said bonds and coupons shall be signed by the mayor and countersigned by the comptroller of said city: Provided, however, That the total amount of said bonds thus authorized to be issued shall not exceed seven hundred thousand dollars outstanding at any one time, and said bonds shall be made payable in equal amounts each year for a period of not exceeding five years from the date of issue, as the Common Council may direct. The said bonds shall be endorsed "Street Improvement Bonds" or "Sewer Construction Bonds," and shall be numbered or lettered by the city clerk consecutively. Said bonds may be made registered or un-registered and shall not be sold for less than par, and be payable at the office of the city treasurer, and the proceeds of the same shall be paid to the city treasurer and by him placed to the credit of the street improvement or sewer construction bond and their interest fund, as the case may be. The said bonds shall be paid at maturity and cancelled, and shall not be reissued or refunded.

Second: All provisions of this title relative to the ascertaining and assessing the cost of public improvements shall be applicable to the ascertainment of the cost of street or sewer improvements paid for by the proceeds of street or sewer improvement bonds, and the assessment of said cost upon the real estate deemed to be benefited thereby, except that the assessment rolls for improvements paid for in the first instance by street or sewer improvement bonds or their proceeds shall be designated by the clerk as "Street Improvement Rolls," or "Sewer Improvement Rolls;" Provided, That assessment rolls for sewer purposes as well as bonds issued therefor shall be kept separate and distinct from street improvement rolls and bonds. Said assessment rolls shall be subject to appeals therefrom to the Common Council by the parties assessed or interested therein, and shall be subject to ratification and confirmation by the Common Council and be final and conclusive as in other cases of public improvements

made under the provisions of this title. All unpaid installments of assessments in said assessment rolls provided for by the provisions of this section shall bear interest at the rate of five per cent. per annum from the time of the confirmation of the assessment roll containing same by the Common Council. The Board of Assessors of said city, or other assessing officer or officers, shall divide each assessment contained in said rolls into so many equal parts as the Common Council shall direct. The said assessment rolls shall be attested by the mayor and city clerk, under the seal of said city.

Third: On or before the first day of April in each year the city comptroller shall certify to the Common Council any additional amount not provided for, to meet the balance of the street or sewer improvement bonded indebtedness of the city maturing in the next fiscal year after such date, and the annual interest on all outstanding street improvement bonds maturing within such time, which amount said Common Council shall order spread on the annual tax roll and which shall be spread thereon in the street or sewer improvement bond column thereof upon all the real and personal property of the city liable to taxation for general city purposes; and such taxes when so assessed shall become a lien upon the real estate assessed the same as other city taxes, and so remain until paid, and the payment thereof shall be enforced and collected in the same manner as the annual taxes of said city, and for the non-payment thereof the premises may be sold in the same manner as for the non-payment of said annual taxes, and when so collected shall be placed to the credit of the street or sewer improvement bond and interest fund, as the case may be, and shall be applied to the payment of the principal and interest of said bonds as they shall fall due, and for no other purpose.

Fourth: The first installment of said assessments to defray the expense of such improvements under the provisions of this section shall be collected in the same manner as assessments for other public improvements under the provisions of this title, and every installment in said assessment roll shall become a lien when said assessment roll shall be placed in the hands of the city treasurer and so remain until all of said assessed taxes shall have been paid, and the provisions of section 173 of this title shall be applicable thereto, and said assessment roll so certified and confirmed by the Common Council and delivered to the city treasurer shall be final and conclusive and be prima facie evidence of the regularity and legality of the proceedings prior thereto. In case of the non-payment of any installment on any such assessment roll, the premises upon which the same is assessed shall be returned and sold for non-payment thereof as in other cases for assessments for public improvements under the provisions of this title and with the same force and effect. Any installment of said roll when collected shall be placed by the city treasurer to the credit of the street improvement or sewer improvement bond fund, as the case may be. Other installments than the first installment of said assessment roll shall become due and payable, as follows: The first in one year, the second in two years, the third in three years, the fourth in four years, as the Common Council shall have provided next after the date of the confirmation by the Common Council of the assessment roll containing the same, with interest annually at the rate of five per cent. per annum: Provided, however, That said assessments, with the interest thereon at the rate aforesaid, may be paid to the city treasurer at any time after the confirmation as aforesaid, of the assessment roll containing the same, and if not paid when due ten per cent. shall be added thereto and collected thereon with said assessments. Said bonds, or any of the avails thereof, shall be used only in the defraying of the expense of the special improvement for which they were issued.

Fifth: The powers herein granted relative to the issue of street or sewer improvement bonds shall be construed to be permissive, and their exercise within the discretion of the Common Council, and if said Common Council shall not order the same to be issued, or if issued, shall not be able to negotiate the same under the provisions of this section, then the expense of such street improvements shall be defrayed, provided for and raised in the same manner as the expense of other public improvements under the provisions of this title, and as though no authority had been given to issue such bonds.

ORDER TO MAKE IMPROVEMENT BY COUNCIL TO BOARD OF ASSESSORS.

(Sec. 168.) Par. 3. The Common Council shall thereupon make an order reciting the public improvements so as aforesaid intended to be made, the amount of expense to be assessed therefor, and the portion of real estate in said city on which the same is to be assessed and directing the Board of Assessors to make an assessment upon all real estate within the portion of the city so apportioned, of the amount of expense in proportion as near as may be to the advantages which each portion or parcel shall be deemed to acquire by making such improvement. Such order shall be certified to by the clerk and delivered to the Board of Assessors, together with the map or profile of the proposed improvement in cases where the same is practicable.

ASSESSMENT ROLL BY BOARD OF ASSESSORS—MAKING OF AND RETURN OF.

(Sec. 169.) Par. 4. The Board of Assessors shall make an assessment according to said order and make out an assessment roll in which shall be entered the names of the persons owning the real estate so assessed, the description of the property on which the assessment is made, the amount assessed thereon respectively, and in assessments for street or sewer improvements under paragraph two of this title, where the expense thereof is to be defrayed in the first instance by the proceeds of street or sewer improvement bonds, they shall divide each assessment into such number of equal parts as the Common Council shall have ordered, and in case any lots or parts of lots shall be occupied and belong to any person residing in said city, such person shall be assessed for the same and his name entered accordingly with the value thereof and the amount assessed thereon, and lots that may be owned by non-residents of said city shall be assessed in the same manner to the owner thereof. The said assessment roll shall be subscribed by said Board of Assessors, or a majority of them who acted in the premises, and returned as speedily as possible to the Common Council.

RETURN OF ASSESSMENT ROLL—ADVERTISING OF BY CITY CLERK—APPEALS FROM.

(Sec. 170.) Par. 5. Upon such return being made and filed the city clerk shall cause notice of the names returned to his office to be published in one of the newspapers of the city for such time as the Common Council shall direct, provided that there shall be at least two publications before the roll shall be acted upon by the Common Council. The Common Council will on such day as it shall have appointed for the hearing of any appeals, or upon any day to which the same may be adjourned, proceed to hear such appeals. Every appeal shall be in writing and shall state the specific grounds of the appeal and the matters therein complained of, and no other matters shall be considered by the Common Council. Such appeals shall be filed in the

office of the city clerk on or before the first day for the hearing of appeals and be a part of the public records of his office.

HEARING ON APPEALS—DISPOSITION OF—CORRECTIONS IN ROLL.

(Sec. 171.) Par. 6. At the time fixed for the hearing, or adjourned day thereof, the Common Council shall hear the allegations and proofs of all persons who may complain of such assessment and rectify and amend the said assessment list and the assessments contained in said roll, in whole or in part, or they may refer said roll back to said Board of Assessors for correction or may set the same aside and direct a new assessment; and in case the said roll shall be set aside the same proceeding shall be had as herein provided upon the first order of the assessment, or the Common Council may ratify and confirm such assessment without any corrections or with such corrections therein as they may think proper; but if no appeals shall be made from such assessment at the day appointed for that purpose, the Common Council shall ratify and confirm said roll after making such corrections in said assessment list of names and descriptions of real estate as it deems necessary and proper: Provided, however, that nothing herein contained shall prevent said Common Council from setting aside said roll and ordering a new assessment on account of any illegality, imperfection or irregularity in any proceeding prior to the making of said roll, or on account of failure on the part of said Board of Assessors making said assessments to assess the entire district ordered to be assessed by said Common Council. A certified copy of said assessment roll confirmed as aforesaid and as hereinbefore provided shall be delivered to the city treasurer by the city clerk, who shall take the receipt of the city treasurer therefor and endorse thereon the time of such delivery.

ADVERTISING OF ASSESSMENT ROLLS BY TREASURER—LENGTH OF TIME FOR PAYMENTS—PERCENTAGE ADDED.

(Sec. 172.) Par. 7. The city treasurer shall thereupon give notice by publication once a week for three successive weeks in a newspaper published in said city of the receipt of such assessment roll, and that the same will remain in his office for the space of twenty days after the first publication of said notice during which time he will receive the payments of assessments made thereon, without extra charge. The city treasurer shall give receipts to all persons who shall pay their assessments to him before the expiration of said twenty days and shall endorse the same so paid to him on such roll. Immediately after the expiration of said twenty days, said city treasurer shall cause to be served upon each person, firm, company or corporation whose name appears on such roll as not having paid the tax assessed against him or it within the twenty days above named, a written or printed or partly written and partly printed notice specifying the amount of the tax assessed against him or it, with two per cent. added for collection fees, and giving notice that after the expiration of thirty days from the date of said notice a further sum of three per cent. on the original tax will be added to all taxes remaining unpaid on said roll at such date as a collection fee. Such notice shall be served by sending the same through the mail with the postage prepaid thereon duly directed to the person, firm, company or corporation, as assessed. The said city treasurer shall make proof of such service upon the roll by setting out a copy thereof and the names of the several persons upon whom the manner by which such service was had, and certify the same under his hand.

MAYOR'S WARRANT—TREASURER TO COLLECT ON.

(Sec. 173.) Par. 8. At the time of the delivery of the roll to the city treasurer the mayor shall attach his warrant thereto commanding the city treasurer to collect all taxes therein contained together with the fees hereinbefore described, within ninety days from the date thereof. It shall be his duty to add to said assessment two per cent. to the original tax on all sums not paid within the twenty days aforesaid and the further sum of three per cent. if not paid within thirty days from the date of said notice, which said sums of two per cent. and three per cent. added to said original assessment shall thereafter remain a part of the same. ,

DAILY DEPOSITS BY TREASURER—FEES, DISPOSITION OF.

(Sec. 174.) Par. 9. Said city treasurer shall deposit all taxes and fees collected by him daily in the city depository or depositories, or as the Common Council shall direct, and shall proceed in the collection thereof in the same manner as in the collection of State, County or municipal taxes within the corporate limits of the city, except as herein otherwise provided. In the case of assessment rolls for street improvements under the provisions of Section two of this title, and where the assessments therein are divided into equal parts and are payable in installments under the provisions of Section two of this title, the said warrant shall command the collection of the several installments of the said assessment as the same shall have been divided in said assessment roll, and the treasurer's notice shall correspond thereto. All fees received by the city treasurer in conformity with the provisions of this title shall belong to the city and be paid into the city treasury to the credit of the general fund of the city.

UNDIVIDED INTERESTS—HOW SAME MAY BE PAID.

(Sec. 175.) Par. 10. Any person owning any undivided share or other part or parcel of real estate assessed in one description may pay the tax on the part thus owned by paying an amount having the same relation to the whole tax as the part on which payment is made has to the whole parcel. The person making such payment shall accurately describe the part on which to make payment, and the receipt given and the record of the receiving officer shall so show such description and by whom paid; and in case of the sale of the remaining part for non-payment of the assessment, such person making such payment may purchase the remaining part or parts in like manner as any disinterested person could purchase the same.

PAYMENT OF ANOTHER'S TAX, ETC.—RECOURSE IN LAW—STREET RAILWAY ASSESSMENTS, COLLECTION OF.

(Sec. 176.) Par. 11. Where any such assessment shall be made upon or paid by any person, when by agreement or by law the same ought to be borne or paid by any other person, it shall be lawful for the one so paying to sue for and recover of the person bound to pay the same, the amount so paid, with interest. When any assessment is made against any street railway company, or the same shall become due by reason of any franchise given to said street railway company, and the same shall not have been paid within the time fixed for the collection of taxes in said warrant, an action of assumpsit may be instituted in behalf of the city in the proper court to recover the amount of said assessment or assessments, or that shall be due the city under the franchise of said street railway company.

REFUND OF OVER-COLLECTIONS.

(Sec. 177.) Par. 12. If upon the completion of any such improvement for which such assessment shall have been made, it shall appear that a greater amount has been assessed and collected than is necessary to pay the expenses thereof, the Common Council shall apportion such excess among the persons and property assessed in proportion to the amount collected of them, and shall pay the same to such persons entitled thereto on demand.

CHANGING OF ORIGINAL PLANS—WHEN SAME MAY BE DONE—ADDITIONAL ASSESSMENT AND DISTRICT.

(Sec. 178.) Par. 13. The Common Council and Board of Public Works may change the plans and specifications of the work, for the payment of which said assessment is ordered to be made, and may add to or diminish the same at any time before the completion of the assessment roll therefor by the Board of Assessors, but not afterwards; and if it shall appear that a greater sum of money has been expended in the completion of such improvement than was estimated as aforesaid, the Common Council may direct the assessment of the same on the owners of the real estate benefited by such improvement in the same manner as above herein described, and the same proceedings in all respects shall be had thereon, and the Common Council may in its discretion enlarge the territory or district to be assessed for such improvements.

CONSTRUCTION OF SIDEWALKS—ORDERING OF BY COUNCIL—BUILDING OF BY CITY—MARSHAL'S DUTY CONCERNING SAME.

(Sec. 179.) Par. 14. Whenever the Common Council shall deem it expedient to construct any sidewalk within the city, it may by ordinance or otherwise, require the owner of any lot or premises adjoining thereto, or fronting or abutting thereon, to construct such sidewalk in front of or adjoining such lot or premises. The Common Council in like manner may, by ordinance or otherwise, under such penalties as it may prescribe, require the owner to repair or reconstruct such sidewalks in front of or abutting thereon or adjoining his premises, in such manner as it may direct. If such owners shall neglect or refuse to make, repair or reconstruct any sidewalk in front of or adjoining his premises within such reasonable time as the Common Council shall prescribe, it shall be lawful for said Common Council, upon proof being filed with the city clerk of said city of the failure of the owner of such property to comply with the requirements of said Common Council, to cause the same to be done at the expense of the city, and an accurate account of the expense thereof shall be certified to by the marshal, who is hereby authorized by virtue of his office to make, repair or reconstruct such sidewalk, or cause the same to be done under the direction of the Common Council, and to file such account in the office of the city treasurer and a duplicate thereof in the office of the Board of Assessors within five days after such work shall have been done. Said account so certified to by said marshal shall contain an accurate description of each parcel of real estate abutting thereon or adjoining thereto, and which was so made, repaired or reconstructed, the expense thereof, and also the name of the owner of the real estate, if known, and if not known, such fact shall be so stated in such account.

RETURN OF UNPAID ACCOUNTS BY TREASURER—ROLLS TO BE MADE.

(Sec. 180.) Par. 15. It shall be the duty of the city treasurer on the third Monday in July, October and January in each year to report to the Board of Assessors the said accounts then remaining unpaid, and the Board of Assessors shall place the same in an assessment roll, together with ten per cent. of each account to be added thereto which said assessment roll shall be returned and reported by said board to the Common Council, and shall be in substance the same as the assessment roll provided for by this title in cases of assessments to defray the expense of public improvements upon districts deemed to be benefited thereby, except that it shall not be necessary to place any valuation upon the real estate described in said roll. Said assessment roll shall be subject to appeals therefrom to the Common Council, and notice of such appeals shall be filed with the city clerk stating the several grounds upon which appeal is taken, and such appeals shall be heard by the Common Council as in cases of other assessments provided for in this title; and all the provisions of this title relative to the hearing and action by the Common Council on such appeals shall be applicable thereto, and said rolls shall be subject to ratification and confirmation by the Common Council as in other cases provided for in this title. Such expense of making, repairing and reconstructing sidewalks as aforesaid, together with such percentage added as aforesaid shall be and remain a lien upon such real estate until the same is fully paid.

AFFIXING OF CERTIFICATE BY CITY CLERK—MAYOR TO ANNEX WARRANT—COMMANDING TREASURER TO COLLECT.

(Sec. 181.) Par. 16. The city clerk shall sign said roll and annex his certificate thereto, and the mayor shall within ten days thereafter annex his warrant to said roll commanding said treasurer to collect said assessments within sixty days from the date thereof.

All provisions of this title relative to the return and sale of real estate for the unpaid assessments thereon are hereby made applicable to sidewalk assessments.

LANDS ACQUIRED BY TAX SALE—TREASURER TO CERTIFY TO COMPTROLLER.

(Sec. 182.) Par. 17. The city treasurer shall certify to the city comptroller lists of all lands acquired by the city on tax sales.

LIABILITY OF OWNERS—REFUSING TO COMPLY WITH ORDINANCES OR RESOLUTIONS OF COUNCIL.

(Sec. 183.) Par. 18. Whenever the owner of any real estate in said city shall refuse or neglect to comply within such reasonable time as the Common Council shall appoint to conform to any ordinance resolution or other order of the Common Council in relation to the removal of encroachments upon the public streets of said city, or upon the real estate belonging to the city, or shall refuse to comply with any of the provisions of the statutes of this state, or to conform to any regulation in relation to public streets or the real estate belonging to the city, in pursuance of the statutes of this State or the ordinances of the city, it shall be lawful for the city of Grand Rapids through its Common Council to cause the removal of any encroachment or the enforcement of any such regulation and the compliance with said provisions, and to recover the amount of such expense with any damages incurred by the city on account of such refusal with costs of suit in an action debt or assumpsit from the owner of such real estate, and

the same shall be a personal charge against the owner of such real estate and its appurtenances. Such claim shall also be a lien upon such real estate and its appurtenances until paid, which lien may be enforced under and in accordance with the provisions of this title in relation to the construction and repair of sidewalks by the city of Grand Rapids.

TREASURER'S DUTIES—REGARDING UNPAID ASSESSMENTS.

(Sec. 184.) Par. 19. Ninety days after any assessment roll has been placed in the hands of the city treasurer for collection without a further time shall have been granted to him to make collections of assessments on such assessment roll by resolution of the Common Council passed to such effect and duly entered upon its minutes, and at the expiration of such further time, if granted, he shall file in his office a complete list of real estate upon which the assessments have not been paid or collected, with a statement to whom each parcel of real estate was assessed, and describe such real estate and give the amount of the assessment together with the collection fees as added upon each parcel; and he shall annex thereto a certificate substantially in the following form: "I hereby certify that the above list contains a true and accurate statement of each parcel of real estate, and the assessment and collection fees thereon remaining unpaid, and the names of persons to whom each parcel was assessed," and the improvement or work on account of which such assessment was made shall be named in such certificate.

SALE OF REAL ESTATE FOR UNPAID TAXES—ADVERTISEMENTS, ETC.

(Sec. 185.) Par. 20. Within sixty days after the return of said list the city treasurer shall cause said list to be inserted in a newspaper printed and published in said city, together with a notice in substance as follows: "It appearing from the return and list of the city treasurer that the assessment and collection fees on the above described parcels of real estate remain unpaid, notice is hereby given that said real estate will be exposed for sale in separate parcels, at public auction on the day of..... A. D. 19.... at 10 o'clock in the forenoon at the front door of the County Court House in said city of Grand Rapids, and sold to the highest bidder for the purpose of collecting said assessments and interest thereon and one dollar for the cost of selling each lot or parcel." Said date of sale shall be at least thirty days after the first publication of said notice and shall be inserted in said paper at least once in each week during that time. Such sale may be postponed by the treasurer from time to time by public proclamation thereof, made at the time and place of sale and by inserting notice of such postponement in the paper containing said notice next under said notice of sale; and if for any cause such sale shall not take place at the time in such notice specified, or at the time to which it may be postponed, the Common Council may direct said treasurer at any subsequent time to re-advertise and sell said real estate in manner and form as aforesaid.

COUNCIL MAY COLLECT FOR CLEANING OF STREETS AND SIDEWALKS AND NUISANCES THEREON.

(Sec. 186.) Par. 21. The Common Council is hereby authorized to assess the real estate of residents and non-residents of the city their just proportion of the expense for cleaning and repairing streets, highways, alleys, lanes, courts, public places, public grounds and side-

walks, and for removing nuisances therefrom. It shall in all cases be the duty of the owner or occupant of real estate in the city adjoining any sidewalk or abutting thereon, to keep such sidewalk in good repair, and to remove and clear away all dirt, wood, snow and ice, and other obstructions therefrom, and not to permit the same to remain thereon, and upon his failure to do so, the Common Council may cause the same to be done at the expense of the city, and such expense shall be assessed upon such real estate, and the amount so assessed shall be collected in the same manner, and the same proceedings shall be had in case of the non-payment of the same as is provided in this title, and such expense shall be a lien upon such real estate and may be enforced in the manner provided in this title for the repairing or building of sidewalks.

TAX SALES—RECORDS OF—CERTIFICATES OF—

(Sec. 187.) Par. 22. The city treasurer shall attend said sale and act as auctioneer. Said auctioneer shall sell all lots or parcels of real estate so advertised upon which the assessments and costs remain unpaid at the time of selling. The said city treasurer shall enter in the book provided for that purpose a description of the real estate sold, the name of the purchaser and the amount of his bid, and shall make out and deliver to such purchaser a certificate containing a description of the real estate purchased by him, the amount of the assessment due, and the cost due, each separately, and the amount of his bid, which certificate shall contain a statement that said purchaser will be entitled to a deed of the real estate described therein at the expiration of one year from such sale, unless the same shall sooner be redeemed. The city treasurer shall receive any assessment, percentage and costs due, at any time before the sale of the real estate upon which the same was assessed. The costs, if paid before sale, shall be fifty cents on each parcel so paid, the costs of advertising and the fees for collection prescribed in said roll.

TAX SALES—PARCELS BID IN BY CITY—TRANSFER OF FUNDS.

(Sec. 188.) Par. 23. In case no person shall bid at such sale the amount of the assessments and costs on any lot or parcel so exposed for sale, the same shall be struck off to the City of Grand Rapids, and the city treasurer shall certify to the Common Council at its next regular meeting a statement of the lots or parcels so struck off to the city, the amount for which each lot or parcel so struck off was assessed, and the amount of cost chargeable to each lot or parcel. The Common Council shall order any such assessment, with the costs thereon, to be paid out of the general fund of said city, and the city treasurer shall thereupon transfer from the general fund to the proper special fund the amount specified in said order.

TAX SALES—REAL ESTATE TO BE SOLD TO HIGHEST BIDDER, ETC.

(Sec. 189.) Par. 24. All real estate offered for sale for unpaid assessments under the provisions of this title shall be offered and sold to the highest bidder; Provided, That no bid shall be received for a less amount than the assessment, and collection fees added, and the costs of sale and advertising together with all other costs and charges legally chargeable against said real estate under the provisions of this title. In case a greater amount is bid for any lot or parcel of real estate, and the same is sold, than the amount of the assessment and costs and charges against the same, the surplus shall be deposited with the city treasurer, whose duty it shall be to keep the same for the benefit of the person or persons entitled thereto.

TAX SALES—PROVISION IN CASE AMOUNT BID EXCEEDS TAX.

(Sec. 190.) Par. 25. In case any person or persons entitled to said surplus money shall present to the Common Council sufficient proof by affidavit, and such other proof as may be required by said Common Council, of his right thereto, and the Common Council shall be satisfied that the person claiming the same is lawfully entitled thereto, it shall order a warrant to be drawn upon the city treasurer in favor of said claimant for the amount thereof; Provided, That said Common Council may, if it deem the same expedient, before it shall allow such claim, require of such claimant a bond of indemnity to the City of Grand Rapids in a penal sum of at least twice the amount of such surplus money claimed, with good and sufficient sureties to be approved by the Common Council, conditioned to save the city of Grand Rapids harmless against all suits and proceedings, damages, costs and charges, which may be brought, recovered, sustained or in any wise incurred by reason of allowing or paying over such surplus money to such claimant, which bond, if approved shall be filed with the city clerk; Provided, That the City of Grand Rapids shall in no case be liable to pay interest on any surplus money deposited as aforesaid.

TAX SALES—REDEMPTION OF.

(Sec 191.) Par. 26. Any distinct parcel of real estate sold under the provisions of this title may be redeemed at any time within one year from the date of sale thereof by paying to the city treasurer the amount for which it was sold, together with one per cent. of such amount to be added thereto for each month from the date of sale until the time of redemption thereof.

TAX SALES—RECORDS OF.

(Sec 192.) Par. 27. Said city treasurer shall keep and preserve in his office all books, papers and documents in relation to such assessments, the sale of real estate for the non-payment of the same and any redemption thereof, and the same shall be prima facie evidence of the matters contained therein.

TAX SALES—DEEDS FOR.

(Sec. 193.) Par. 28. In case said lands shall not have been redeemed as aforesaid, it shall be the duty of the mayor of said city to execute and deliver to the purchaser a deed of the premises, which deed shall be in substance as follows:

"Whereas, on the day of A. D. 19.... at a public sale made by the treasurer of the City of Grand Rapids, for assessments duly assessed by said city for the following purposes, A..... B..... became the purchaser of the following described real estate, to wit:.....
.....
.....
for the sum of.....dollars, that being the amount of the assessment, costs and interest of the.....
.....

Now, therefore, know all men by these presents that I.....
....., mayor of said city, in consideration of the premises hereby grant, bargain, sell and convey unto the said A..... B..... his heirs and assigns, all right, title and interest obtained by the city in said sale in the real estate above described, as so purchased by him, to have and

to hold the same to the said..... his heirs and assigns forever.

Witness my hand and the seal of said city this..... day ofA. D. 190..."

TAX SALES—DEEDS FOR.

(Sec. 194.) Par. 29. Deeds on all sales under this title shall be acknowledged as other conveyances, and when executed and acknowledged as aforesaid, shall vest in the purchaser the title to said land, and such deeds shall be prima facie evidence of the existence and regularity of all such prior proceedings leading up to said sale. Such deeds shall be countersigned by the comptroller.

ASSESSMENT ROLLS—FILING OF—COPIES—WARRANT—CORRECTION OF ERRORS.

(Sec. 195.) Par. 30. The assessment rolls made pursuant to the provisions of this title shall be filed in the office of the city clerk, and a true copy thereof shall be made to which the warrant of the mayor shall be annexed for the collection thereof. In case of the loss or destruction of the said copy, a new one may be made to which the warrant of the mayor shall be attached and such new copy shall be as valid for all purposes as the first copy would be had full proceedings been taken under it. If any assessment made for any improvement under this title and herein provided for be set aside or adjudged void or illegal by a court, or otherwise, or if there are defects or errors in respect to the roll itself, or in the proceedings prior thereto, the Common Council may by order set aside the same, and go back far enough to correct the proceedings and make a new roll.

ASSESSMENT ROLLS—COLLECTION OF.

(Sec. 196.) Par. 31. In proceeding to collect an assessment upon a roll made as aforesaid the city treasurer shall credit on such roll all sums paid by any person, and shall mark "paid" all the real estate or any distinct parcel thereof, which is separately assessed upon which the assessments have been paid, and shall then proceed to collect the unpaid assessments thereon in the manner directed in his warrant. The city treasurer shall make return thereof in the manner hereinbefore directed in reference to other assessment rolls.

ASSESSMENT ROLLS—EXTENSION OF TIME FOR COLLECTION OF—UNPAID ORDERS ON, ETC.

(Sec. 197.) Par. 32. The Common Council may at any regular meeting, by a vote of a majority of all the aldermen-elect, extend the time for the collection of any assessment roll in pursuance of the provisions of this title, from time to time, beyond the time fixed in the warrant of the mayor and upon the granting of such extension, the provisions of this title shall apply to said roll in the same manner, as near as may be, as if such extension had not been granted, and like proceedings shall be taken thereunder. The City of Grand Rapids shall be liable for interest at the legal rate per cent. on all orders which shall have remained unpaid for four months after the date of issue, provided that said orders shall have been presented to the city treasurer and payment thereon demanded in which case it shall be the duty of the city treasurer to endorse on the back of said order "Presented for Payment," and also the date of such presentation and demand, which endorsement shall be signed by the city treasurer in his official capacity.

ASSESSMENT ROLLS—ALIAS WARRANT.

(Sec. 198.) Par. 33. If for any reason not going to the validity of such assessment roll the time for the collection of any assessment thereunder shall expire before all the assessments therein contained shall have been collected, the Common Council, by a vote of a majority of all the aldermen-elect, may instruct the mayor to attach an alias warrant thereto and fix the time for the running of such alias warrant, which said alias warrant shall be the same in form and substance as the original warrant, except that it shall be therein indicated to be an alias warrant, and shall command the city treasurer to collect the balance of said assessments then remaining uncollected, as are collectible, under the provisions of this title, and the powers, duties and obligations of the city treasurer under the alias warrant shall be the same as they were under the original warrant.

CITY TO PURCHASE LANDS AT TAX SALES.

(Sec. 199.) Par. 34. The City of Grand Rapids is hereby authorized and empowered to purchase all parcels of land which shall be advertised and offered for sale under the provisions of this title which shall not be sold as aforesaid, and in case the same is not redeemed as provided by law, to receive a deed thereof, and to hold, occupy and enjoy, use, possess, lease and convey the same as fully and as completely as a natural person might or could do.

TAX DEEDS TO CITY.

(Sec. 200.) Par. 35. Whenever any lots, parts of lots or parcels of land shall be struck off to the City of Grand Rapids as provided in the preceding section, and the same shall not have been redeemed within the time hereinbefore provided, a deed or deeds shall be made to the city as near as may be in the form prescribed hereinbefore, and such deed so executed and acknowledged shall vest the fee of the land described therein in the city of Grand Rapids, divested of all prior claims and encumbrances.

PROTECTION OF CITY'S TITLE IN EQUITY.

(Sec. 201.) Par. 36. The city of Grand Rapids may maintain an action of ejectment to recover possession of any lands to which it may have obtained title at any tax sale or sales, against any person in possession thereof claiming adversely. The City of Grand Rapids being in possession of any of said lands to which it has obtained title as aforesaid, may file a bill in equity in the proper court to quiet and establish its title, and free the same from cloud against any person or persons claiming an interest therein hostile to the city's title.

COMPTROLLER TO LEASE AND NEGOTIATE SALE OF PROPERTY PURCHASED BY CITY.

(Sec. 202.) Par. 37. It shall be the duty of the city comptroller as soon as the city of Grand Rapids obtains title to any real estate under the provisions of this title, to lease the same upon the best terms he can secure for a period of time not exceeding three years, unless further time be authorized by the Common Council, reserving in such lease the right of said city to sell the real estate embraced therein at any time during the continuance thereof. It shall also be his duty to negotiate terms of sale for such real estate, and to report such terms to the Common Council, and if the Common Council shall approve thereof, it may order a conveyance to be made in accordance therewith.

**COMPTROLLER TO REPORT LIST OF REAL ESTATE OWNED BY CITY AND
COLLECT RENTS DUE ON SUCH LANDS.**

(Sec. 203.) Par. 38. It shall be the duty of said city comptroller to report in writing to said Common Council at least once in six months and as much oftener as the Common Council shall require, a particular description of all the real estate owned by the city in pursuance of the provisions of this charter, and if any of said real estate is leased, he shall so state in his report to the Common Council, and the terms of such lease or leases, and also the amount realized on the same respectively. It shall also be his duty to attend to the collection of the rents due on such parcels of land, and he shall pay all sums so collected without delay to the city treasurer.

**COMPTROLLER TO PROTECT CITY'S TITLE BY PURCHASES AT OTHER
SALES, ETC.**

(Sec. 204.) Par. 39. Said city comptroller shall as far as possible protect the title of the city to said real estate, and for that purpose shall purchase the same at any sale for state, county or municipal taxes or assessments, when advisable, and the said city is hereby authorized to become the purchaser of such real estate at any such sale.

**MONEY PAID ON ACCOUNT OF REAL ESTATE TO BE PLACED IN GENERAL
FUND.**

(Sec. 205.) Par. 40. All moneys received on account of real estate owned by said city, the title to which is vested in the city in pursuance of the provisions of this title, shall be paid into the city treasury, and placed in the general fund.

**PAYMENT OF AMOUNT BID AT A TAX SALE—48 HOURS' TIME—PROVI-
SION IN CASE OF NON-PAYMENT.**

(Sec. 206.) Par. 41. The purchaser at a sale made in accordance with the provisions of paragraph twenty of this title, shall, if the city treasurer requires it, make immediate payment of the amount of his bid, and in case of his neglect or refusal to make such payment, the treasurer may declare the bid canceled, and offer the real estate for sale again. In case any person neglects or refuses to pay any bid made by him as aforesaid, he shall not thereafter be entitled to bid further at said sale. In all other cases the purchaser shall pay the amount of their respective bids within forty-eight hours after the sale is closed. In case any purchaser shall fail to pay the amount of his bid within forty-eight hours any other person paying such amount shall have a certificate of sale issued to him in accordance with the provisions of paragraph 22 of this title; but if no such person pays such amount said real estate shall be set down as struck off to the city of Grand Rapids in the same manner and to the like effect as if there had been no bidders for such real estate at such sale.

**PURCHASERS BEFORE RECEIVING TAX DEED—TO PAY ALL PREVIOUS
UNREDEEMED TAX SALES.**

(Sec. 207.) Par. 42. If in any event it shall occur that any real estate is advertised for sale under the provisions of this title and shall be struck off to a purchaser other than the city of Grand Rapids, and at the same time the whole or any part thereof, has heretofore been struck off to the city of Grand Rapids on account of any previous un-

paid tax or assessment, and the whole of such real estate, or any part thereof as aforesaid, shall remain unredeemed from such previous unpaid tax or assessment at the time that said purchaser on the sale first hereinbefore mentioned shall become entitled to receive a deed of said real estate, he shall before receiving said deed, pay to the city treasurer the full amount of all such previous unpaid taxes and assessments, costs and charges, for which said real estate or any part thereof shall have been struck off to the city of Grand Rapids, and which remains unredeemed as aforesaid, anything in this title to the contrary notwithstanding. All bids made at any sale of real estate as provided for in this section shall be deemed to be made subject to the provisions thereof.

CORRECTION OF ERRORS IN DESCRIPTIONS OF REAL ESTATE.

(Sec. 208.) Par. 43. Whenever the Common Council shall discover that any real estate on which any tax or assessment remains unpaid has been so imperfectly or erroneously described that the same cannot in its opinion be located with certainty, or that the sale thereof would not convey to the purchaser a valid title to the real estate intended to be charged with such assessment by reason of the imperfect or erroneous description thereof, the Common Council shall by an order entered in its minutes, accurately describe such real estate intended to be charged with such tax or assessment, and shall direct the city treasurer to correct the assessment roll on file in his office containing such imperfect or erroneous description so as to make it correspond with the accurate description contained in said order of the Common Council, and thereupon all copies of such assessment roll required by the provisions of this act to be made shall be made to correspond therewith as corrected: Provided, That no such imperfect or erroneous description shall be corrected until the owner of the real estate shall be notified of such intended correction by a printed or written or partly printed and partly written notice, either served upon him personally, or by leaving the same at his place of abode with some suitable person of proper age and discretion at least three days before such correction shall be made. In case such owner is a non-resident of the city, such notice shall be published in one of the newspapers of the city at least three days before such correction shall be made.

SALE OF BUILDINGS, ETC., ON PROPERTY TAKEN FOR OPENING STREETS, ETC.

(Sec. 209.) Par. 44. Whenever in the laying out, establishing, opening, extending, widening or straightening any highway, street, avenue, lane, alley, public ground or spaces in said city, any buildings or parts thereof, or other appurtenances to the realty shall be taken and condemned, it shall be the duty of the Common Council of said city to dispose of the same either at public or private sale as soon as possible after the title is vested in the city for the best price that can be obtained therefor, and distribute the net proceeds thereof among the persons whose property were assessed for the benefits received in making such improvement, in proportion to the amount collected of them for such benefits, and pay the same to such persons on demand after such sale and the receipt of the proceeds thereof; Provided, however, that when any part of the damages and compensation is assessed to the city of Grand Rapids a pro rata share of such proceeds shall be paid into the general fund of said city.

ERRORS AND OMISSIONS IN MAKING ASSESSMENTS, ETC., NOT TO DEFEAT CITY IN COLLECTION OF TAX.

(Sec. 210.) Par. 45. No mistake or error in the proceedings in regard to the opening or improvement of streets, avenues, public ways or alleys or in the construction of sewers, or in the assessment or collection of costs or expenses thereof, or in the proceedings for the assessment or collection of municipal taxes in said city, or any irregularity in any special or city tax roll by reason of the proceedings therefor not being had within the time required by law, or the property having been assessed to the wrong owner, or any irregularity, informality or omission or want of any matter of form or substance in the proceedings that does not prejudice the property rights of the person whose property is taxed, shall defeat the city in the collection thereof; but any such errors may be corrected on equitable principles under the direction of the Common Council of the city, if discovered before suit is brought thereon or by the court after suit is instituted, and the equitable amount due the city may be enforced as though no such error had occurred. All proceedings in assessing and levying taxes for special improvements and the sale and conveyance of land thereunder shall be presumed by all courts of this state to be legal until the contrary is affirmatively shown. The absence of any record of any proceeding or proceedings, or the omission of any mention in any record of any vote or proceeding or of mention of any matter in any statement or certificate that should appear therein, under the provisions of this act, or of any law of this state, shall not affect the validity of said proceedings, tax or title depending thereon, provided the fact that such vote or proceeding was had or tax authorized is shown by any other record, statement or certificate made evidence by the terms of this act, or any other law of this state. No special tax or proceedings leading up to such tax or sale of property for said tax shall be rendered or held invalid by showing that any record, statement, certificate, affidavit, paper or return, cannot be found in the proper office; and unless the contrary is affirmatively shown the presumption shall be that such record was made and such certificate, statement, affidavit, paper or return was duly made and filed.

ASSESSMENTS AGAINST RAILROAD PROPERTY, ETC.

(Sec. 211.) Par. 46. All freight houses, roadbeds, rights of way and other premises belonging to any steam railroad or railroad corporation or company within the corporate limits of the City of Grand Rapids, which are necessarily used in the operating of the respective franchises of the owners of said railroads, and the person, company or corporation owning the same are liable for all valid unpaid assessments for public improvements hereafter made within the city of Grand Rapids and assessed against the same, but no lien shall attach thereon on account of such assessments and the payment of such assessments shall not be enforced and collected by sale of said property. Assessments of such classes of property shall be made in the same manner as the assessments of other property under the charter of said city for special improvements, and the assessment roll for such special improvement taxes shall be prima facie evidence in any court of the regularity of all proceedings leading up to the assessment and the making of said roll.

COLLECTION OF ASSESSMENTS AGAINST RAILROAD PROPERTY.

(Sec. 212.) Par. 47. All special assessments made as aforesaid against the property of said railroad companies, and the owners thereof, for public improvements, and all installments thereof together with the interest, costs and charges thereon for enforcing the collection of the same, are hereby made and declared legal demands against each and every of said railroad or railway corporations or companies against whose property such assessments are made in favor of the city of Grand Rapids, and if any of said railroad or railway corporations or companies shall fail to make payment thereof within the time payment is required of such special assessments under the roll on which they are extended, then the city of Grand Rapids may institute an action in assumpsit or other proper legal action in any court of competent jurisdiction against the owners of said properties, and if judgment be rendered thereon in favor of said city of Grand Rapids, the same may be collected on execution out of any property of said railroad or railway corporations or companies liable to levy and sale on execution.

HIGHWAY DISTRICTS—FUNDS FOR AND USE OF SAME.

(Sec. 213.) Par. 48. Each of the several wards of said city shall constitute a separate highway district, and each district shall have its separate highway fund, and it shall not be lawful to expend any portion of the highway tax authorized by this act except in the highway district in which it was raised. The money paid into the city treasury to the credit of the several highway funds shall not be used for any other purpose. The money so collected and paid into the city treasury under the provisions of this section, shall be credited to the several highway funds and be expended under the direction of the Common Council by such person or persons and under such regulations as the Common Council may determine and adopt in the care, maintenance, cleaning and sprinkling of the streets, highways, alleys, lanes, courts, public places and public grounds in the city. Nothing herein contained shall be construed to authorize the use of such highway money in the grading and paving of any street, highway, alley, lane, court, public place or public ground in the city.

HIGHWAY COMMISSIONERS TO MAKE REPORTS, ETC.

(Sec. 214.) Par. 49. The person or persons appointed by the Common Council to superintend the expenditure of highway funds of said city, shall at the regular meeting of the Common Council in each week make a full report of his or their doings and expenditures of such funds during the previous week with vouchers for the same verified by oath or affirmation, and if such statements and reports of expenditures shall be satisfactory to the Common Council, it shall order the payment thereof out of the proper highway funds of the city.

RELATIVE TO BORROWING MONEY FOR HIGHWAY PURPOSES.

(Sec. 215.) Par. 50. The Common Council may borrow on the credit of the city for highway purposes any sum necessary for immediate use not exceeding two thousand dollars in any one year, and at a legal rate of interest, which shall be paid from the highway tax of the district for which it was borrowed.

SEWER DISTRICTS—FUNDS FOR AND USE OF SAME.

(Sec. 216.) Par. 51. All that portion of the City of Grand Rapids lying on the east side of Grand River and south of Fulton street shall constitute the first sewer district of said city; all that portion of said city lying on the east side of Grand River and north of Fulton street shall constitute the third sewer district of said city; and all that portion of said city lying on the west side of Grand River shall constitute the second sewer district of said city. Each sewer district shall have its separate sewer fund and it shall not be lawful to expend any portion of the sewer fund authorized by this act, except in the sewer district in which it was raised. The amount paid into the city treasury to the credit of each of said sewer funds shall not be used for other purposes.

TITLE VII.

BOARD OF ASSESSORS.

APPOINTMENT OF—TERM OF OFFICE—SALARY OF.

(Sec. 220.) Par. 1. There shall be three assessors in the City of Grand Rapids who shall be appointed by the mayor and known as "The Board of Assessors of the City of Grand Rapids," each of whom shall hold his office for the term of three years and until his successor is appointed by the mayor and duly qualified, and whose powers and duties shall be as hereinafter provided. Each assessor shall receive a salary not exceeding eighteen hundred dollars per annum, to be fixed by the Common Council of said city, payable monthly out of the same fund and in like manner as other city officers are paid. The member of said Board of Assessors whose term of office shall soonest expire shall be the president of said board. Said Board of Assessors shall have an office furnished for it by the city of Grand Rapids in the City Hall of said city. The assessors shall devote their entire time to the duties of their office. They shall *ex-officio* be members of the Board of Supervisors of the County of Kent.

ASSESSMENT OF REAL AND PERSONAL PROPERTY.

(Sec. 221.) Par. 2. Said Board of Assessors shall before the first Monday in April of each year assess at its true cash value all the real and personal property subject to taxation by the laws of this State in each ward of said city.

POWERS OF.

(Sec. 222.) Par. 3. Said Board of Assessors shall have power to demand of every person owning or having in charge as agent or otherwise, any taxable property in any ward of said city, a list of all such property, with such description as will enable it to assess the same; and every cashier or other officer of any bank, trust company or corporation, shall furnish on demand of said board a complete list of all the stockholders owning shares of stock in such corporation or company and the amount of stock owned by each, and the residence of each stockholder, when known. If such list is not furnished by such person, cashier or other officer, or if any property in such ward is omitted from such list, then said Board of Assessors shall have the power, and it shall be its duty to place upon the assessment roll such property to be assessed as said Board of Assessors, using its best knowledge and information, shall deem the same liable to assessment.

NOTICE TO TAXPAYERS OF TIME APPOINTED FOR APPEALS FROM ASSESSMENTS—MANNER OF MAKING APPEAL—WHEN ROLLS ARE TO BE RETURNED TO COUNCIL—EMPLOYMENT OF HELP BY BOARD.

(Sec. 223.) Par. 4. It shall be the duty of said board to cause notice to the taxpayers to be published in two newspapers in said city for ten days prior to the first Monday in April in each year, that the assessment

rolls will be completed and open for inspection on said first Monday of April and that said board will sit at its office in the city hall to hear appeals from the assessments in said rolls for ten days, beginning the first Monday of April; that any person considering himself aggrieved by reason of any assessment, may complain thereof by an appeal in writing which shall be filed with said board during said ten days and not thereafter. Every such appeal shall be in writing and state specifically the grounds of appeal and matters complained of, and no other matters shall be considered by said board. The date of the receipt and filing of such appeal shall be endorsed thereon and signed by one of said board in his official capacity, and it shall thereupon become a part of the official records of said board. The said board shall review the assessments complained of and alter or correct the same as to the persons charged thereby, the property described therein and the estimated value thereof. No appeal shall be allowed in whole or in part without the concurrence of a majority of said board. After having completed the review and correction of said assessment rolls, the said board shall sign the same and add thereto its certificate that the same has been duly completed. On or before the fourth Monday in April in each year, said board shall return said assessment rolls to the Common Council of said city. Said Board of Assessors in performing the duties required in this act shall have power to employ such clerks as may be necessary, the salaries of whom shall be fixed by the Common Council, to be paid from the contingent or general fund.

COMMON COUNCIL AS BOARD OF REVIEW—APPEALS TO COUNCIL FROM ACTION OF BOARD.

(Sec. 224.) Par. 5. After receiving said assessment rolls from the Board of Assessors, said Common Council acting as a Board of Review, shall at its next regular session, and at such other sessions as may be necessary, proceed to consider the same, and any person considering himself aggrieved by the assessment of his property, and the decision of said Board of Assessors thereon, may appeal to said Common Council acting as such Board of Review. Every such appeal shall be identical in matter with that filed in the Board of Assessors office, and shall be in writing, and state specifically the grounds of appeal and the matters complained of, and no other matters shall be considered by the Common Council acting as such board of review. Such appeals shall be filed in the office of the city clerk within five days after the return of said assessment rolls to the Common Council, and the city clerk shall endorse thereon the date of the receipt and the filing of the same, and thereupon such appeals shall become a part of the official records of his office. The Common Council acting as a board of review shall have power to administer oaths and examine witnesses in the same manner as is now, or hereafter may be, conferred upon Township Boards of Review by the general tax laws of this State: Provided, That no appeal shall be entertained by said Common Council acting as such board of review, unless the same shall have first been brought to the attention and consideration of said Board of Assessors as aforesaid. Whenever said Common Council shall sit as such board of review, said Board of Assessors shall be notified, and it shall be the duty of each assessor to attend such session or sessions, and each assessor may make such suggestions as he may desire, and shall answer such questions as may be put to him by the members of the Common Council, acting as such board of review, relating to the matters under advisement by said board of review.

POWERS OF COUNCIL IN ADJUSTING APPEALS OR ADDING OF ADDITIONAL ASSESSMENT.

(Sec. 225.) Par. 6. The Common Council, acting as such board of review, shall hear and determine all appeals in a summary manner and correct any clerical error which it may discover in the assessment roll and any error alleged in any appeal that may be well founded, and may place thereon the names of any person or persons and description of any property not already assessed, and may assess the same.

NOTICE TO BE SERVED WHEN INCREASE OR ADDITIONAL ASSESSMENT IS MADE.

(Sec. 226.) Par 7. No assessment shall be increased or property added to said assessment roll except on written or printed, or partly written and partly printed, notice to the person to be affected thereby. Such notice shall, in case of a resident of said city, either be served personally upon him, or by leaving the same at his place of abode with some suitable person of proper age and discretion at least three days before such action is taken thereon by said Common Council acting as a Board of Review: Provided, That in case of a non-resident of said city such notice shall be published in two newspapers of said city at least three days before any action is taken by such Common Council acting as such board of review.

LIMITING OF TIME TO COUNCIL AS BOARD OF REVIEW—MAJORITY VOTE MAY CONFIRM ROLLS—MAYOR TO HAVE DECIDING VOTE ONLY.

(Sec. 227.) Par. 8. The Common Council acting as such board of review, may continue the consideration of such assessment rolls and the hearing of such appeals from session to session, not exceeding fifteen days from the time when the same are first taken under consideration, as herein provided, and a vote of two-thirds of the members of such acting board of review shall be necessary to change any assessment made by said Board of Assessors on which an appeal has been taken. On or before the expiration of said fifteen days said assessment rolls, as changed or corrected, if any change shall be made, shall be finally confirmed by said Common Council, acting as such board of review, and shall be the basis of all taxes to be levied and collected in the City of Grand Rapids according to the property valuations therein stated, until another assessment shall have been made and confirmed as herein provided: Provided, That in finally passing upon said assessment rolls, a majority vote of the members of said Common Council acting as said board of review, shall be sufficient to confirm the same; and in case of a tie vote, the mayor of said city, who is hereby authorized and empowered in all cases to preside over said Common Council while acting as such board of review, shall have the deciding vote thereon, but in no other case shall the mayor have a vote in the action of said Common Council as a board of review.

CITY CLERK TO KEEP RECORD OF SESSIONS OF BOARD—MANNER OF FINAL DELIVERY OF ROLLS BY HIM TO BOARD OF ASSESSORS.

(Sec. 228.) Par. 9. The city clerk of said City of Grand Rapids shall be the clerk of said Common Council acting as such board of review, keep the records of its sessions and proceedings and such other records as are necessary to be kept, and it shall be his duty to attach his certificate under the seal of the City of Grand Rapids, to said assessment rolls after the same shall have been finally confirmed by said Common Council, acting as said board of review, certifying that such assessment rolls have been acted upon and confirmed by said Common Council as a board of review, and thereupon it shall be his duty to redeliver said assessment rolls to said Board of Assessors.

**COMMON COUNCIL TO DETERMINE AMOUNT OF BUDGET—CITY CLERK
AND ASSESSORS' DUTIES.**

(Sec. 229.) Par. 10. It shall be the duty of the Common Council on or before the third Monday in May in each year, to determine by resolution the amount necessary to be raised for city, highway and other municipal purposes, for which said city may legally raise money by tax, for the ensuing year commencing July first of each year, and it shall be the duty of the clerk of said city to certify under his hand and the seal of said city the amount to be raised, to the Board of Assessors within five days thereafter, and it shall be the duty of said Board of Assessors to apportion the amount so to be raised among the several wards of said city according to the property valuation appearing upon the assessment rolls of the several wards as finally confirmed by said Common Council, and thereupon the Board of Assessors shall assess the amount so apportioned as hereinafter provided.

MAKING OF THE CITY TAX ROLLS—AND DELIVERY OF SAME.

(Sec. 230.) Par. 11. After the amount of taxes to be raised has been certified to the said Board of Assessors, it shall be the duty of said Board of Assessors to make copies of said rolls and to cause the amount of all taxes authorized to be assessed and collected in each year, to be rateably assessed upon the property therein described upon and according to the value thereof as assessed in said assessment rolls. Said assessment rolls shall be known as "The City Tax Rolls," and shall show in separate columns the property assessed, the name of the person to whom assessed, the assessed value and the amount of the city, highway and other municipal taxes. Said rolls shall be completed, footed, balanced, signed, certified by the Board of Assessors and delivered to the treasurer of the city before the first day of July thereafter, and the said Board of Assessors, within the time aforesaid, shall annex their warrant to each of said city tax rolls, signed by the members of said board and directed to the city treasurer, commanding him to collect from the persons named in said city tax rolls the taxes therein set forth in accordance with the mandate of the law in relation thereto and take the receipt of the city treasurer therefor. The Board of Assessors shall at the same time deliver to the comptroller a statement showing the amount of taxes assessed upon each of said rolls, and the comptroller shall make an entry thereof in the books of his office, and charge the gross amount thereof to the treasurer.

**ADVERTISING OF ROLLS AND COLLECTIONS BY TREASURER—TIME
LIMIT—PERCENTAGE.**

(Sec. 231.) Par. 12. Upon receipt of said city tax rolls by the city treasurer as herein provided, the taxes therein stated shall become a debt due and payable to the City of Grand Rapids, and the city treasurer shall forthwith upon the receipt of such city tax rolls give six days' notice by publication in two newspapers of said city and also by posting the same in at least six public places in each of said wards of said city (which notice shall be a sufficient demand for the payment of all taxes assessed in said city tax rolls), that the same have been deposited with him and that payment of the taxes therein specified may be made to him at any time before the last day of February following thereafter. That no addition will be made to taxes paid before the first day of August thereafter, but that an addition of one per cent. on every unpaid tax will be made thereto on that day, and a like addition of one per cent. on the first day of each month thereafter until such addition shall amount to six per cent. of such tax: Provided, That when a person shall, on or before the 25th day of July, hand to the city treasurer a list of the property on which he wishes to pay

the taxes and shall not be able to pay said taxes before the first day of August, on account of a pressure of business in the city treasurer's office, then he shall not be charged any percentage if he pays said taxes by the 10th day of August of said year.

DUTIES OF TREASURER—BONDS, ETC.

(Sec. 232.) Par. 13. The treasurer of said city shall collect all taxes including taxes for local improvements assessed upon the whole city or parts or portions thereof, and for that purpose shall give a bond or bonds to said city in such sum and with such sureties as the Common Council shall require and approve; and such treasurer of said city shall give to the treasurer of the County of Kent, such further security as is or may hereafter be required by law of the several township treasurers of the several townships of this State; and for the purpose of the collection and return of all such taxes including taxes for State and County purposes and the return of property delinquent for the non-payment of taxes, the said city treasurer on giving bonds or security so required, shall possess all of the powers and exercise and perform all of the functions and duties of the several township treasurers of this State, as now exist or may hereafter be prescribed by law, and shall also perform such other duties respecting the collection and return of taxes and special assessments, as this act imposes.

POWER TO LEVY FOR UNPAID TAX, ETC.

(Sec. 233.) Par. 14. On or before the first day of August in each year, and at any time until the taxes hereinbefore mentioned are paid, it shall be the duty of the city treasurer and the clerks and subordinates in his office, designated by him for that purpose, to collect all unpaid taxes which are assessed against any property of whatever nature other than real estate, and if necessary, the said treasurer shall have power to levy upon and sell at public sale any property of any person refusing or neglecting to pay such tax. Whenever any such property is levied upon as aforesaid three full days' notice of any such sale shall be given by the said treasurer, by publication in two newspapers of said city and by posting the same in three public places in the ward wherein such person resides, and any surplus money remaining after the payment of the tax and all interest and charges thereon and all costs and charges of such sale, shall be paid over to the owner of such property or person entitled to receive the same. The city treasurer shall also have the additional power in the name of the City of Grand Rapids to commence an action in assumpsit, or other proper action, in the Superior Court of said city, against any person neglecting or refusing to pay such tax and to whom the same is legally assessed, and enforce any judgment obtained against any such person as the result of such action, by an execution issuing out of the court in which such judgment may have been obtained. Said city treasurer shall also use and take all lawful ways and means provided by law for the collection of debts, to enforce the collection of any such tax. The assessment or tax rolls in all cases and under all proceedings provided for in this section shall be prima facie evidence of the indebtedness of any such person and the regularity of the proceedings by which such tax was assessed.

WHEN TAXES BECOME A LIEN—TO TAKE PRECEDENCE.

(Sec. 234.) Par. 15. Every tax levied or imposed by authority of the Common Council, in accordance with the provisions of this act, except where otherwise provided, shall constitute a charge against the person or persons to whom assessed, from the date of the delivery of the city tax rolls to the city treasurer; such tax shall also, together with all interest and charges, become and remain until paid a lien on the land and tene-

ments, and upon the personal property against which the same is assessed, on and after the day of the delivery of said tax rolls to the city treasurer. The lien against such personal property shall take precedence over any sale, assignment, chattel mortgage, levy or other lien upon any such personal property, except the sale of goods, wares and merchandise of a merchant made in the due course of trade or the sale of personal property to a bona fide purchaser without notice, whether such sale, assignment, chattel mortgage, levy or other lien upon such personal property was made before or after such tax was assessed.

REMOVALS FROM WARD—TREASURER TO COLLECT WHERE LOCATED.

(Sec. 235.) Par. 16. In case any person upon whom any tax may have been assessed in any ward of said city for personal estate, shall have removed out of such ward after such assessment, before such tax ought by law to be collected, it shall be lawful for the treasurer of said city to levy and collect such tax of the goods and chattels of the person so assessed in any township of the County of Kent, or in any ward of said city to which such person shall have removed, or in which he shall reside or may have personal property.

PERSONAL TAX—TREASURER MAY SUE FOR NON-PAYMENT OF.

(Sec. 236.) Par. 17. Whenever any tax shall hereafter be assessed on any city assessment roll or be placed upon any tax roll, for city, highway, sewer, or other municipal purposes, on personal property, in any ward of said city, and shall be returned for non-payment, it shall be lawful for the treasurer of said city, in the name of the City of Grand Rapids, to sue the person or persons against whom such tax was assessed before any court of competent jurisdiction, and to take all lawful means provided by law for the collection of debts, to enforce the payment of any such tax, or it shall be lawful at any time after such return for the Common Council of said city to direct such personal tax, so returned, to be reassessed by the Board of Assessors, upon the personal or real estate of such person or persons against whom the same was originally assessed.

PROPERTY LIABLE TO SEIZURE UNDER EXECUTION ISSUED UPON JUDGMENT RENDERED.

(Sec. 237.) Par. 18. Executions issued upon judgments rendered for any such tax may be levied upon any property liable to be seized and sold under warrants issued for the collection of taxes by supervisors under the general tax laws of this State, as now, or at any time hereafter, in force; and the proceedings of an officer with any such execution shall be the same in all respects as are now provided by law.

ASSESSMENT OR TAX ROLLS AS EVIDENCE IN CASE OF TRIAL.

(Sec. 238.) Par. 19. The production of any assessment roll or tax roll on the trial of any action brought for the recovery of any State, County or school tax, or for the recovery of any city, highway, sewer or other tax for city purposes, either special or general, therein assessed, may upon proof that it is the original assessment roll, or the assessment or tax roll, with the proper warrant annexed, of any of the wards of said city of Grand Rapids, containing any such tax, be read and used in evidence; and if it shall appear from such roll that there is a tax assessed against the defendant in such suit, it shall be prima facie evidence of the legality and regularity of the assessment of the same, and the court before whom the case may be pending shall render judgment against the defendant for all the taxes appearing upon said roll to have been assessed to said defendant, unless he shall make it appear that he has paid such tax, and no stay of execution shall be allowed on any such judgment.

TREASURER'S DUTIES ON RECEIPT OF PAYMENT FOR TAXES—UNDIVIDED INTERESTS DISPOSITION OF—RETURN OF UNPAID ASSESSMENTS—PUBLICATION OF.

(Sec. 239.) Par. 20 Upon the receipt of any tax the city treasurer shall mark the same paid upon the proper roll and give receipt therefor. Any person owning an undivided share or other part of real estate assessed in one description may pay on the part thus owned an amount having the same relation to the whole tax as the part on which payment is made has to the whole parcel. The person making such payment shall correctly describe the part on which he makes payment, and the receipt given and the record of the receiving officer shall show such description, and by whom paid. Any person having a lien upon real estate may pay the taxes thereon and the same may be added to his lien and recovered with the rate of interest borne by such lien. Upon the first day of January following the time when any tax shall become due and payable, the city treasurer shall add to every such tax six per cent. of the amount thereof as stated in the rolls, and the amount of such tax and addition hereinbefore specified shall thenceforth be the unpaid tax and bear interest from said last named day at the rate of ten per cent. per annum until paid, except as herein otherwise provided. On or before the 15th day of January the city treasurer shall add to the assessment rolls of the unpaid tax of each ward an additional column, which shall show the increased amount of such original tax, and shall make a certified copy of the roll containing all unpaid taxes of the several wards in a book furnished for that purpose and deliver the same to the city clerk. Immediately after completing such assessment rolls as last above provided, said treasurer shall cause a notice to be published in five successive numbers of two newspapers published in said city, stating that said rolls of unpaid taxes have been made and that they will remain in his office where such taxes may be paid until the first day of March following, after which the property against which such taxes are assessed shall be advertised and sold as hereinafter provided.

PUBLIC SALE OF PROPERTY FOR UNPAID TAX—TIME AND PLACE.

(Sec. 240.) Par. 21. Owners or parties having legal interest in any real estate assessed under the provisions of this title shall be liable to pay every tax regularly assessed thereon, and if the same shall not be paid by the first day of March following the assessment of the same, it shall be the duty of the city treasurer to cause a notice to be published in one of the newspapers of said city at least once a week for four successive weeks requiring the owners or parties having a legal interest in such real estate, to pay such tax, together with all interest and charges thereon, and if default shall be made in paying of the same, such real estate shall be sold at public auction on the second Monday in April thereafter at nine o'clock in the forenoon of that day at the court house in said city, or as soon thereafter as the description of such real estate shall be reached in the course of sale, at the highest price that shall be bid for the same for the payment of such tax together with all interest, costs and charges thereon. Such sale shall be continued from day to day, Sunday and legal holidays excepted, from the hour of nine o'clock in the forenoon until the hour of twelve o'clock noon, and from the hour of one o'clock in the afternoon until five o'clock thereafter of each day until all lands covered by such delinquent taxes are sold.

COST OF ADVERTISING LIMITED, PER DESCRIPTION, ETC.

(Sec. 241.) Par. 22. The costs of the advertising provided for in the preceding section shall in no case exceed the sum of eighty cents for each description of real estate advertised, and shall be paid out of the gen-

eral fund, not otherwise appropriated. Each description of real estate shall be separately exposed for sale for the total amount of the tax, interest, costs and charges thereon, and shall be sold to the person who bids the highest price for such real estate: Provided, That no bid shall be accepted for less than the amount of such tax, interest, costs and charges thereon including the costs of sale.

REDEMPTION OF PROPERTY SOLD AT PUBLIC SALE—WHEN TIME FOR EXPIRES—FORM OF DEED TO BE ISSUED BY CITY TO PURCHASER.

(Sec. 242.) Par. 23. If the owner or persons having a legal interest in any such real estate does not pay such assessment or tax with all interest and charges thereon within the period above prescribed for the publication of such notice, then it shall be the duty of the said city treasurer to cause such real estate to be sold at public auction to any bidder to pay said tax, together with all interest and charges thereon and the costs and charges of said sale, and to execute the proper certificate to the purchaser thereof. If there shall be a sum bid for any such real estate in excess of said tax, and of the interest and charges thereof and all costs and charges of sale, the excess thereof shall be deposited with the city treasurer to be disposed of as hereinafter provided. If such real estate shall not be redeemed within one year after such sale thereof as hereinafter provided, the mayor of said city shall in the name of the city, execute and deliver to such purchaser or his assignee the proper deed of conveyance of such real estate, which deed shall be prima facie evidence of the regularity of all proceedings under which said sale is made and deed executed. The said deed shall be substantially as follows: "Whereas, on the day of..... A. D.... at a public sale, made by the treasurer of the City of Grand Rapids, for taxes duly assessed by the said City of Grand Rapids, for the following purposes (stating purposes for which the assessment was made), A..... B..... became the purchaser of the following described real estate, namely (describe real estate), for the sum of dollars, that being the amount of the tax, interest, costs and charges thereon. Now, therefore, know all men by these presents, that I, C..... D....., mayor of said city, in consideration of the premises, do hereby grant, bargain, sell and convey unto the said A..... B....., his heirs and assigns, the real estate above described, as so purchased by him, to have and to hold the same to the said A..... B....., his heirs and assigns forever.

Witness my hand and the seal of the city thisday of A. D. 19....
Signed, sealed and delivered in the presence of
C..... D.....
Mayor of the City of Grand Rapids.

DEEDS TO HEIRS OR ASSIGNS.

(Sec. 243.) Par. 24. In all sales of real estate for taxes as aforesaid, if the purchaser or his assigns shall have died before a deed of conveyance of the same shall have been issued and delivered to said deceased purchaser or his assigns, such deed of conveyance shall be issued in the name of the deceased purchaser or his assigns, as the case may be, and the same shall be delivered to his or their heirs or devisees, but if delivered to the heirs or devisees of such deceased purchaser, it shall be subject to the legal claims of all his creditors. In case the executor or administrator shall have assigned such certificate of purchase, then such deeds of conveyance shall be issued and delivered to the person to whom such assignment shall

have been made, but subject to the legal claims of all the deceased's creditors.

WHEN CITY TO BECOME PURCHASER AT SALE—CONDITIONS WHEN CITY MAY ASSIGN TO OTHERS.

(Sec. 244.) Par. 25. Such public sale shall be conducted by the city treasurer, but no sale shall be made to any person of real estate, unless such person shall bid the amount of the tax and all interest and charges thereon including the costs and charges of sale. In case no person shall bid the amount of such tax and all interest and charges thereon, together with all costs and charges of sale the said real estate shall be struck off to the City of Grand Rapids, and the city shall thereby become the purchaser of such real estate. In case any purchaser of such real estate, or any part thereof, upon any such sale shall refuse or neglect to pay the amount bid by him within twenty-four hours after the time at which such sale was made, any other person who is willing to immediately pay the amount of such bid and take the interest in such real estate which such purchaser was to have for such bid, shall be entitled to have a certificate of sale made out, executed and delivered to him of such interest in such real estate by the city treasurer; otherwise such bid shall enure to the use and benefit of the City of Grand Rapids, and the city shall be the purchaser thereof for the amount of the tax, interest and charges with the costs and charges of sale.

TAX SALE CERTIFICATE ISSUED BY TREASURER.

(Sec. 245.) Par. 26. A certificate shall be given by the city treasurer to each purchaser of any interest in real estate on such sale, containing an accurate description of the interest so purchased, the year and the tax for which such purchase was made, the amount of such tax, interest and charges thereon, with the costs and charges of sale; the date of sale, and also stating that such purchaser will be entitled to a deed thereof within one year from the date of such sale. The city treasurer shall date and sign said certificate.

DEEDS AS PRIMA FACIE EVIDENCE.

(Sec. 246.) Par. 27. Deeds for all sales for taxes assessed on real estate under this act shall be witnessed and acknowledged and when so witnessed and acknowledged and delivered shall vest the title in fee to such real estate in the purchaser thereof or his heirs or assigns, and such deed of conveyance shall be prima facie evidence of the existence and regularity of all prior proceedings that might be otherwise required to be proven in order to establish the title in the purchaser thereof.

BIDS IN EXCESS OF CLAIM—BALANCE TO REVERT TO PROPERTY OWNER UPON PROOF—BOND OF INDEMNITY.

(Sec. 247.) Par. 28. In case a greater amount is bid for any real estate and the same is sold, then the amount of such tax or assessment, interest and charges thereon, and costs and charges of sale, shall be deposited with the city treasurer, whose duty it shall be to keep the same for the benefit of the persons entitled thereto. Any person entitled to such excess shall present to the Common Council of said city, proof by affidavit, and such other evidence as the Common Council may require, of his claim thereto, and the said Common Council, if satisfied that the person claiming the same is lawfully entitled thereto, shall order a warrant to be drawn upon the treasurer in favor of such person for the amount thereof, which warrant shall be signed by the clerk of said city and countersigned by the

city comptroller, and shall be paid by the treasurer upon presentation of the same: Provided, That the said Common Council may, before it shall allow such claims or order it to be paid, require of such persons a bond of indemnity to the City of Grand Rapids in a penal sum of at least twice the amount of the excess claimed, with good and sufficient sureties, to be approved by said Common Council, conditioned to save the city harmless and indemnify it against all suits and proceedings, damages, costs and charges which may be brought, recovered, sustained or in any wise incurred by reason of the allowing or paying over such excess to such person. And, provided further, that the City of Grand Rapids in any case shall not be liable to pay any person claiming such excess any interest thereon.

REDEMPTION AFTER SALE—RATE OF INTEREST.

(Sec. 248.) Par. 29. Any real estate sold under the provisions of this act, or any distinct parcel thereof which is separately assessed, may be redeemed at any time within one year after the date of sale of the same by paying to the city treasurer the amount for which it was sold with interest at the rate of eight per cent. per annum; and said treasurer shall keep account of such payments in books to be furnished and kept in his office as official records thereof, which books shall be prima facie evidence of the matters hereby required to be entered therein.

CITY TREASURER TO CERTIFY TO CITY CLERK—PAYMENTS OF TAX, ETC.

(Sec. 249.) Par. 30. Whenever any payment is made to the city treasurer for taxes or for the redemption of any real estate sold for taxes, after the certified copy of the roll containing all unpaid taxes of the several wards shall be certified to, the city clerk, as provided in paragraph 20 of this title, he shall give a receipt therefor to the person making such payment and immediately make a duplicate thereof, duly certified by him to be a true and compared copy of such receipt, and deliver the said duplicate to the city clerk who shall keep the same as a part of the official records of his office; and said city clerk shall enter the substance of the same in a book to be kept by him for such purpose and such book shall be a part of the official records of his office.

MONEY ACQUIRED FROM SALE OR REDEMPTIONS—TO BE PLACED IN GENERAL FUND.

(Sec. 250.) Par. 31. All moneys realized from the sales of any property together with that received from the redemption of real estate, both as hereinbefore provided in this title, shall be received by the treasurer of said city and placed to the credit of the general fund.

TREASURER TO CERTIFY TO COMMON COUNCIL PARCELS OF LAND STRUCK OFF TO CITY.

(Sec. 251.) Par. 32. In case the City of Grand Rapids shall become the purchaser of any real estate, on the sale thereof for an unpaid tax, as hereinbefore provided, the city treasurer shall certify to the Common Council of said city at its next regular meeting, a statement of the parcels so struck off to the city, and the amount of the tax for which such parcels so struck off were assessed, together with all interest and charges thereon, and the costs and charges incurred on account of the sale thereof.

BOOK OF REDEMPTIONS.

(Sec. 252.) Par. 33. After the sale of said real estate by the city treasurer, for an unpaid tax as aforesaid, he shall enter the same by identical description as sold in the books kept by him for redemption purposes, as hereinbefore provided, and the same shall become a part of the records in his office.

REAL ESTATE ASSESSMENTS—EXEMPTIONS—PARK AND PUBLIC PROPERTY NOT EXEMPT FROM STREET IMPROVEMENT.

(Sec. 253.) Par. 34. All sums of money directed to be raised by the Common Council, except as in this act otherwise provided, shall be assessed upon all the real estate and personal property in the city not exempt from taxation by the general statutes of the State, and upon all the personal property of residents of the city not so exempt, according to the valuation thereof by the last preceding assessment rolls filed in the office of the Board of Assessors, but no real estate or personal property which shall be exempt from taxation by the general statutes of this State, nor any public square, park or other public ground shall be assessed for the ordinary State, County, city, highway, sewer or school taxes: Provided, however, That the provisions of this section shall not prevent the assessments and the collection thereof to defray the expense of street and other improvements upon real estate deemed to be benefited according to the provisions of title six of this act.

BOARD OF ASSESSORS TO MAKE COPIES OF ROLLS—ATTACHING OF WARRANT—TREASURER TO COLLECT.

(Sec. 254.) Par. 35. It shall be the duty of said Board of Assessors to make copies of all assessment rolls as finally confirmed by the said Common Council of the City of Grand Rapids, while so acting as a board of review, as herein provided, upon which assessment rolls said board shall ratably assess the State, County and school taxes as provided by the general laws of the State. When said assessment rolls shall have been finally completed, footed and balanced by said Board of Assessors, it shall attach to each of said rolls its warrant, signed by the members of said board, and deliver the same with such warrants so attached to the treasurer of said city within the time prescribed by law for the completion and delivery of the township rolls to the respective township treasurers of the State. Upon the receipt of such assessment or tax rolls with the warrant so attached it shall be the duty of the treasurer of said city to collect the taxes on said rolls assessed as aforesaid, and to return the same to the treasurer of Kent County within the time prescribed by law, in like manner as the same is now or may hereafter by law be required in warrants of township treasurers for the collection of taxes in townships of this State.

OFFICE AND HOURS FOR RECEIVING OF TAX MONIES.

(Sec. 255.) Par. 36. The treasurer of said city shall have an office for the receipt of all taxes and assessments payable to him, which office shall be open from eight o'clock in the forenoon until noon, and from one o'clock in the afternoon until five o'clock thereafter of each secular day not a legal holiday, of the time during which any tax roll shall be in his hands for collection. Upon the receipt of any tax roll for State, County or school taxes he shall give notice thereof in two newspapers, published and circulated in said city, for at least ten days next after the first publication of said notice, and by printed notices posted in at least five public places in each ward of the city; which notices shall describe such

tax roll, the general nature of the taxes therein contained and name the location of his office: Provided, That the Common Council, can, by resolution duly entered in its minutes, order the said office to be kept open at such other hours as it may deem best.

STATE, COUNTY AND SCHOOL TAX—INTEREST ADDED TO, ETC.

(Sec. 256.) Par. 37. For the collection of all State, County and school taxes the city treasurer shall be entitled to add to all such taxes collected by him the same interest, collection fees and charges as are now, or hereafter may be provided by the general tax laws of the State, for interest, collection fees and charges on township tax rolls when collected by the township treasurers of this State: Provided, however, that all collection fees and charges which are now or may hereafter be by the general tax laws of the State, payable to the Township treasurer to his own use, shall, when collected by the said city treasurer, be by him paid into the general fund of said city for the use of said city.

MANNER OF COLLECTION OF TAXES.

(Sec. 257.) Par. 38. The city treasurer of said City of Grand Rapids, and all his clerks and subordinates whose duty it shall be to collect such State, County and school taxes, shall use all legal means to collect the same within the time fixed by law. The city treasurer shall credit all school moneys in any manner received by him to the school fund of the city.

CITY TREASURER TO REPORT TO COUNCIL SALE OF LAND—COLLECTION OF REDEMPTIONS BY COUNTY TREASURER.

(Sec. 258.) Par. 39. Two weeks before the date of sale of any real estate upon which the city has any prior claim or claims, the treasurer shall report to the Common Council a list of the parcels of such real estate and the amount for which said property is to be sold and also the amount of such prior claim. The city treasurer shall also attend to the collection and payment into the proper fund of the city treasury of all moneys received by the County treasurer on account of the redemption of real estate sold for all previous delinquent taxes.

BOARD OF ASSESSORS—TERM OF OFFICE—MAYOR TO APPOINT SUCCESSOR.

(Sec. 259.) Par. 40. The present Board of Assessors of the city, as constituted at the passage of this act shall be and remain the acting Board of Assessors of the city and continue to discharge all the duties and functions thereof, subject to the provisions of this act: Provided, That whenever the term of office of any member thereof shall expire, his successor shall be appointed by the mayor, and those who are so appointed shall serve with the present members of the board whose terms of office shall not have expired, until the same shall expire.

BOOKS OF RECORD TO BE RETAINED IN OFFICE.

(Sec. 260.) Par. 41. All books, papers, assessment rolls and records formerly belonging to the offices of the respective supervisors of the several wards of the city, or of the present Board of Assessors of said city, shall be kept in the office of the Board of Assessors, and all future original assessment rolls shall be placed therein and remain and be a part of the official records thereof.

TAX HISTORY—MAKING OF BY CITY TREASURER, DISPOSITION OF FEES.

(Sec. 261.) Par. 42. It shall be the duty of the city treasurer of said city upon request made by any party for a certified tax history of any parcel of land within the city covering all general or special city tax sales, or claims for city, general or special taxes, to prepare and certify such a tax history, and charge the party requesting the same the sum of twenty-five cents therefor, which fee shall be paid into the city treasury for the benefit of the general fund.

TITLE VIII.

BOARD OF PUBLIC WORKS.

PERSONNEL—APPOINTMENT OF—TERM OF OFFICE.

(Sec. 266.) Par. 1. There shall be a Board of Public Works in said city composed of five members, all of whom shall be qualified electors of the city, to be appointed by the mayor. No more than three members thereof shall be appointed from any one political party. The members of said board as now constituted shall continue to hold their respective offices for their full terms and until their successors are appointed and qualified in the manner provided for in this title. In the making of the first appointments hereunder the respective appointees shall be selected for such terms as may be necessary to constitute a board wherein one member's term shall cease at the end of one year, one at the end of two years, one at the end of three years, one at the end of four years and one at the end of five years, and such appointments shall be made with reference to the terms of the present members of the board at the time this act goes into effect. The full term of each member of the Board of Public Works hereafter appointed shall be five years.

ACCEPTANCE AND OATH OF OFFICE—FILING OF—CITY CLERK TO REPORT.

(Sec. 267.) Par. 2. Any person appointed to and accepting membership on said board shall take the constitutional oath of office and file the same with the city clerk within the time provided in this act, which filing shall constitute an acceptance of the office; and said clerk shall thereupon report such acceptance of office to the Common Council at its next regular meeting.

SALARY OF MEMBERS DEFINED.

(Sec. 268.) Par. 3. The members of said board shall each receive pay for actual time necessarily spent in the discharge of the duties of their office, whether attending as members upon the sessions of said board or otherwise, at the rate of three dollars per day; but accounts for services by members, other than for attendance on sessions of the board, shall be approved by it and allowed in the usual manner of claims against the city.

ELECTION OF ITS PRESIDENT—MAKING OF ITS OWN RULES, ETC.— COUNCIL TO PROVIDE FOR EXPENSES—DISQUALIFICATION BY ELECTION TO OTHER OFFICE.

(Sec. 269.) Par. 4. Said board shall annually elect one of its members president thereof. It shall have power to make such by-laws, rules and regulations as may be necessary for the conducting of the business of the board and which shall not be inconsistent with the provisions of this title. The Common Council shall provide said board with suitable offices and supplies for its work. All necessary

expenses incurred by said board shall be presented to the Common Council and allowed and paid in like manner as other similar accounts against the city. The election of any member of said board to any office under the charter of said city shall vacate his position upon said board.

RECORDS AND QUORUM.

(Sec. 270.) Par. 5. The Board of Public Works shall keep a record of its proceedings and determination and therein shall be shown the vote of each member voting upon every question brought before and decided by said board, which record shall at all times be open to public inspection. Three of the members of said board shall form a quorum for the transaction of business, but it shall require the concurrent votes of at least three of the members of the board to decide questions before the board.

SECRETARY AND GENERAL MANAGER AND COMPENSATION. BONDS MAY BE REQUIRED OF ANY EMPLOYEES.

(Sec. 271.) Par. 6. The Board of Public Works shall appoint some suitable person as secretary thereof and shall fix his compensation at a sum not exceeding one thousand five hundred dollars per annum, which compensation when so fixed shall be audited and paid as the salaries of the city officers are audited and paid. Said board may also appoint a deputy secretary with power to discharge the duties of secretary in his absence or on account of disability on the part of said secretary to discharge such duties, and fix his compensation. Said secretary in person or by deputy shall attend upon the sessions of the board and keep a record of its proceedings and affairs and discharge such other duties appertaining to such records and affairs as the board may require. Said Board of Public Works may, if it shall so determine, make such secretary the general manager of the entire affairs of the Board of Public Works and the executive officer thereof, and in case such action is taken the city engineer, superintendent or superintendents of the water works and electric lighting plant or other public utilities, and all agents and employees of the board shall be under his control and direction, subject to the supervision of the Board of Public Works. And in the event of said Board of Public Works creating the office of general manager in connection with that of secretary of the board, it may fix his salary at a sum not to exceed four thousand dollars to be paid as above provided. The Board of Public Works may require any person employed by it to give bond to the city of Grand Rapids in such penalty, and with such sureties as said Board shall fix and approve, for the faithful performance of such services and duties as may be required of them by the board and to pay over all moneys which shall come into the hands of such employee.

APPOINTMENT OF ENGINEER—SUPERINTENDENT OF WATER WORKS, ELECTRIC LIGHT OR OTHER PLANT AND TERMS OF, TO BE REPORTED TO COUNCIL.

(Sec. 272.) Par. 7. Whenever the Board of Public Works shall appoint a city engineer, superintendents of the water works, electric lighting plant or other plant, secretary or deputy secretary, as provided for in this title, it shall be its duty to report the name of each of the persons appointed and the terms of his appointment to the Common Council within ten days thereafter.

BOARD TO DETERMINE GRADE LINES OF STREETS, ETC.—RECONSTRUCTION OF SIDEWALKS, ETC., LIEN ON PROPERTY—ITS DUTY TO LOCATE NECESSARY MAIN AND LATERAL SEWERS, ETC., TO HAVE EXCLUSIVE CONTROL OF PUBLIC AND LOCAL IMPROVEMENTS.

(Sec. 273.) Par. 8. Said Board of Public Works is hereby empowered to determine and establish the grade line of all streets, sidewalks, public places and public grounds in the city, and to compel the laying of all sidewalks in conformity with the grade line thereof; and in case any sidewalk shall not be laid in conformity with such grade line by the owner or occupant of the property, said Board of Public Works shall remove such walk and rebuild the same in accordance with the grade line so established, and the cost thereof shall be a charge against the adjoining property and become a lien thereon to be enforced in accordance with the provisions of Title VI. of this act in relation to the construction and repair of sidewalks. It shall be the duty of said Board of Public Works to establish the grade line for sidewalks on any unimproved street at the request of any owner of the adjoining premises. It shall be its duty to locate all necessary main and lateral sewers, drains, culverts, vaults, arches and bridges, pipes, wells, pumps, filters, fountains and reservoirs in said city. It shall have the exclusive control of the construction of all public and local improvements after the same have been ordered by the Common Council and in accordance therewith, including the grading, gravelling, macadamizing, paving, curbing, or otherwise improving the streets and other public places in the city, of all public and private sewers, sewage disposal plants, farms and pumping works; of all sidewalks, cross-walks, private driveways, bridges, elevated roads, railroads, viaducts and other like structures, and of all excavations in streets or other public places. The construction of private driveways from the gutters to the street line in any street which shall have been or may hereafter be improved, shall be done under the direction of and in accordance with the plans adopted by said board.

POWERS OF BOARD IN CONSTRUCTION AND REPAIR OF STREETS, ETC., WHEN BY COUNCIL DECLARED NECESSARY—TO BE PETITIONED FOR BY MAJORITY OF OWNERS—PROVISO BY COUNCIL INCLUDING THE LAYING OF SIDEWALKS AND SEWER OR WATER CONNECTIONS IN PUBLIC IMPROVEMENTS.

(Sec. 274.) Par. 9. The Board of Public Works shall have power to grade, gravel, raise, level, repair, mend, pave or cover with broken or pounded stone, plank or other material, all streets, alleys, lanes, highways, courts, public places and public grounds or sidewalks in the city, and such designated portions of any street, alley, lane, highway, court, public place or public ground in the city as the Common Council by a majority vote of all the aldermen elect shall by resolution declare to be a necessary public improvement, whether the same has been previously graded, raised, leveled, repaired, mended, paved, or covered as aforesaid or not; Provided, That the Common Council shall not have authority to declare the grading, gravelling, raising, leveling, repairing, paving or covering as aforesaid of any street, alley, lane, highway, court, public place or public ground, or designated portion thereof, a necessary public improvement, unless it shall have been petitioned so to do by the owners of a majority of the foot frontage residing in the city, of all real estate on said street, alley, lane, court, highway, public place or public ground, or designated portion thereof, proposed to be improved, after the grade

shall have been established. But this proviso shall not apply when the Common Council shall by an affirmative vote of five-sixths of all the aldermen elect of said council declare such grading, graveling, raising, leveling, repairing, mending, paving or covering as aforesaid, a necessary public improvement. Provided, further, That when the Common Council shall, in its resolution declaring the grading or paving of any street a necessary public improvement, also include as a part of such improvement the laying of sidewalks thereon, said board may construct sidewalks as a part of such improvement. It may also, in the same manner, include as a part of such improvement, the construction of water services from the water main to the street line.

**BOARD TO HAVE CHARGE OF MAINTENANCE OF STREETS, ALLEYS, ETC.,
AFTER PERMANENT IMPROVEMENT— PROVISION
FOR EXPENSE.**

(Sec. 275.) Par. 10. The said board, after the permanent improvement of any street, avenue, alley or public place, shall have charge of its maintenance and the making of all repairs thereon, the cost and expense thereof to be provided for by the Common Council.

BOARD'S POWER TO REGULATE MANNER OF CARRYING OUT OF ORDINANCES BY COUNCIL—FOR MAINTENANCE, ERECTION OR REMOVAL OF POLES, WIRES, CABLES, LAYING OF TRACKS, CONDUITS OR SUBWAYS, MANNER AND CHARACTER OF RAILS, CONFORMITY OF GRADES, OPENING OF STREETS, LAYING DOWN OF PIPES, ETC.

(Sec. 276.) Par. 11. Whenever the Common Council shall by ordinance authorize, or has heretofore authorized, the erection, maintenance and removal of poles, wires and cables for telephones, telegraphs, electric lights, electric railways, electric motors or any other purpose, or the laying down of tracks and turntables for street cars or other railways, and the laying of wires and underground conduits or subways for the same, in, under, upon or over the streets, alleys or public parks and public grounds in said city, or in, under, over or upon any lands owned by or under the control of said city, whether they be inside the limits of said city or not, the Board of Public Works shall have the powers and authority to regulate the manner of carrying out the provisions of any such ordinance, and may, pursuant to ordinance, require all wires and cables to be laid in such conduits or subways; and may pursuant to ordinance regulate the kind, manner and character of the rails to be used by street railway companies and other railway companies within the limits of said city; and shall require all companies building and operating such roads to conform to the street grades in all streets wherein the same are operated; and may fix and regulate pursuant to the ordinances or resolutions of the Common Council the opening of street surfaces and the places and manner of laying down and taking up all motor, gas, steam, sewer and other pipes and wires placed in the streets and other public places in said city.

PUBLIC BUILDINGS AND UTILITIES—BOARD TO HAVE CHARGE OF ERECTION AND CONTROL—EXCEPTIONS—APPOINTMENT OF ENGINEERS, ETC.

(Sec. 277.) Par. 12. Said board shall have charge and control of the erection and construction of the city hall, public market buildings, electric light buildings and other public buildings or structures,

excepting engine houses and school houses in said city. Said board shall have charge and control of the erection, maintenance and operation of electric or other lighting plants and of all public utilities hereafter acquired unless otherwise provided; it may employ and fix the compensation of a superintendent or superintendents thereof, and such assistants as it shall deem necessary. It shall have in relation to such plants, utilities and employes, the same powers and duties, as far as applicable, as are hereinafter given said board in relation to the water works of said city.

ADVERTISING FOR PROPOSALS FOR STREET IMPROVEMENTS—SUPPLYING OF WATER OR LIGHT AND OTHER PUBLIC UTILITIES, ACCEPTANCE AND REJECTION OF BIDS, CONTRACTS AND SECURITY—WHEN WORK MAY BE DONE BY BOARD, REPORTS TO COUNCIL CONCERNING SAME.

(Sec. 278.) Par. 13. In the erection of public buildings and the grading, graveling, paving, planking or covering with other material any street, highway, lane, alley, court, public place or public ground, and in constructing main and lateral sewers, drains and other public works, utilities or improvements, including works for supplying the city with light and water, said board shall advertise in two daily newspapers of the city for at least one week for proposals to execute the work and for materials according to the plans and specifications adopted by the board and make contracts in writing, which must be approved by the Common Council, with any responsible bidder; provided, said board shall require security for the performance of the proposals tendered to said board, if the bid is accepted, and security for the performance of any contract entered into. Said board shall have the right to reject any and all bids made, and in case all bids are rejected the board shall readvertise for proposals to execute the work and for materials, but in case all the bids received exceed the detailed estimate of the cost of such work submitted by the city engineer at the time of receiving such bids, the board may readvertise for proposals to execute the work and for materials, or perform such work and furnish the materials therefor itself without further advertising; and if the latter method shall be adopted, it shall be the duty of said board to communicate in writing to the Common Council at its earliest opportunity its determination so to do, and after the completion of such work at its earliest opportunity the board shall make an itemized report in writing to the Common Council of all money expended by it in prosecution of such work and the purchase of such material, stating therein for what particular purpose said money was expended. Provided, where such work is to be done, and the estimated cost of the same is less than five hundred dollars, the Board of Public Works may or may not advertise for bids, at its option, but in such event shall report its determination to the Common Council and proceed to have the work done and make an itemized report thereof in writing of the expense thereof to the Common Council, as in this section above provided, and report the same to the Common Council at its earliest opportunity after the work is completed.

APPROXIMATE AND FINAL ESTIMATES TO BE FURNISHED BY BOARD—COUNCIL TO DETERMINE MATERIAL TO BE USED—UNLESS MAJORITY OTHERWISE PETITIONED FOR.

(Sec. 279.) Par. 14. Previous to declaring any improvement a public necessity the Common Council shall request the Board of Public Works to furnish an approximate estimate of the cost of

making such improvement, and it shall be the duty of the Board of Public Works in pursuance of such request to furnish such approximate estimate for the improvement named therein, and may accompany the same with its recommendation with reference to such improvement. But no estimate made more than one year prior to such declaration shall be deemed a compliance herewith. Whenever the Common Council shall by resolution declare any public work in said city a necessary public improvement, or shall order the construction of any work which is to be done by or under the charge and control of the Board of Public Works, it shall be the duty of said board and said board is hereby authorized to determine and designate the particular kind and quality of all material to be used in the construction of said work as directed by the Common Council: Provided, That if the owners of a majority of the foot frontage of any real estate on any street, alley, lane, court, highway, public place or public ground, or designated portion thereof, proposed to be improved, residing in the city of Grand Rapids shall in their petition to the Common Council for such improvement designate the character of the improvement desired by them, and such improvement shall be ordered by the Common Council as designated in said petition, then it shall be the duty of said board to substantially follow such designation.

When the board shall have determined and designated the kind and quality of all materials to be used in the construction of such work, it shall estimate the probable cost and expense of the same and of the materials to be used in detail, and cause to be prepared so far as may be necessary plans and specifications for such work, and report such estimate to the Common Council as a basis for assessing or otherwise raising according to law the funds necessary to enable the board to go forward and complete said work.

MONEYS TO BE PAID ON CONTRACTS ONLY ON ESTIMATE FURNISHED BY BOARD FROM FUND PROVIDED FOR.

(Sec. 280.) Par. 15. All moneys appropriated by the Common Council shall be expended by said board for the purposes designated, so far as shall be necessary, and be drawn from time to time from the appropriate fund by order of the Common Council upon estimates of amounts earned, to be made by the board and reported to the Common Council in accordance with the terms of such contract, and no money shall be drawn from the city treasury under this title except upon the order of the Common Council.

APPOINTMENT OF CITY ENGINEER AND ASSISTANTS, DUTIES, SALARIES, ETC.

(Sec. 281.) Par. 16. Said board shall appoint a city engineer and such assistants as may be necessary who shall receive such compensation for their services as may be provided and fixed by said board, not exceeding three thousand dollars per year for said engineer, which compensation so fixed as aforesaid, shall be audited, allowed and paid in the same manner as is provided for the auditing, allowing and paying the salaries of other city officials. Said city engineer shall perform such duties as pertain to the civil engineering profession and keep himself informed of the condition of all public streets, sewers and grounds, and all plans and specifications for the construction, improving or repairing thereof shall be made under his supervision, and he shall have supervision of all streets, sewers, and public property under the control of the Board of Public Works, and the improvement and repairs thereof, except the water works and lighting plant, whether such work be done by contract or other-

wise. He shall see that the provisions of all contracts, ordinances and regulations relating to the construction, improvement and repair of streets, sewers and all property herein designated are strictly complied with.

He shall keep proper records of all matters relating to his office and report to the Board of Public Works or other boards, commissions, or the Common Council, from time to time, such suggestions and recommendations in matters connected with his department as he may deem expedient. It shall be the duty of such engineer to perform such duties as may be required of him by the Board of Public Works or Common Council and act as consulting engineer for all other boards and commissions authorized by this act or created hereafter in pursuance thereof. He shall receive no compensation or salary therefor other than his salary as city engineer.

BOARD TO REPORT PROGRESS, ETC., OF IMPROVEMENTS UPON RESOLUTION OF COUNCIL.

(Sec. 282.) Par. 17. The Common Council may at any time by resolution call upon said Board of Public Works to furnish a statement showing the condition, progress and operation of any work or improvement being carried forward under the charge and control of said board; and it shall be the duty of said board to furnish said statement without unnecessary delay.

AUTHORITY AND POWER OF BOARD TO MAINTAIN AND CONTROL WATER WORKS—EXTENDING OF AND ADDING OF ADDITIONAL SUPPLY FROM IN OR OUT OF CITY.

(Sec. 283.) Par. 18. Said Board of Public Works shall have charge and control of the maintenance and operation of the city water-works, and it is hereby authorized and given authority, by and with the approval of the Common Council, to purchase or construct new, or maintain and extend existing water works to supply the inhabitants thereof with pure and wholesome water for the ordinary and extraordinary uses of the inhabitants thereof, the extinguishment of fires and such other purposes as the Common Council may prescribe. When the Common Council shall deem it for the public interest water works may be purchased within or without the corporate limits of the city, or may be constructed and maintained by the Board of Public Works with the approval of the Common Council, beyond the corporate limits of the city; and in such case the Common Council shall have authority to enforce beyond the limits of the city within the county or counties in which such works are situated, and over the buildings, machinery and other property belonging to and connected with such water works such ordinances and police regulations as may be necessary for the care, protection, preservation, management and control thereof, in the same manner and to the same extent as if they or it were within the city.

BOARD'S PRIVILEGES IN STREETS, ETC., PURCHASE OF MACHINERY, PURCHASING OR LEASING OF LAND, WATER WORKS, RIGHTS OF WAY AND PRIVILEGES, ON APPROVAL AND CONSENT OF COUNCIL.

(Sec. 284.) Par. 19. Said Board of Public Works may determine the kind and quantity of power and machinery required therefor, the pipes, conduits and reservoirs to be used, and the manner and extent of distribution in said city; and with the consent and approval of the Common Council shall have the right to lay conduits, pipes,

aqueducts or other necessary works over or under any water-course, or under and along any street, alley, lane, turnpike, railroad or railway, within or outside said city, but not in such a manner as to obstruct the same, or impede or prevent travel thereon; and said board may at all times enter upon and dig up such street, alley, road or highway to lay pipes thereon or to construct works underneath the surface thereof; but it shall cause the surface of such street, alley, road or highway to be relaid or restored to its usual state, and any damage done thereto to be repaired, and such rights shall be continuous for the purpose of relaying or repairing water pipes upon like conditions.

Said Board of Public Works with the approval of the Common Council may lease and purchase lands, water works, rights and other privileges deemed necessary in effecting such supply. It shall have power to erect and maintain a dam in Grand River on or near the rapids thereof if found necessary, within the corporate limits of the city, in order to procure a sufficient supply of water for the use of the city and the citizens thereof. It may lay service pipes to each lot adjacent to the street when laying water mains therein or improving the same in such manner and places as said board shall deem necessary, and establish and erect fire hydrants, jets and fountains.

REPAIRS IN CASE OF ACCIDENT TO WATER WORKS.

(Sec. 285.) Par. 20. Whenever the water works or other works under the control of the Board of Public Works shall be injured or impaired by accident or otherwise, said board shall have power by and with the written consent of the Mayor filed with the city clerk, to repair or re-construct said works by contract or otherwise, when in the opinion of said board, such repair or reconstruction is immediately necessary, and the interests of the city will be jeopardized by delay. In case said board shall repair or reconstruct any work as aforesaid, it shall without delay make a full report to the Common Council of the nature and extent of such repair or reconstruction with an itemized statement of the cost thereof, and thereupon it shall be the duty of the Common Council to provide means to meet the cost thereof in the manner provided by law.

REPAIR AND EXTENSION OF MAINS—ISSUE OF BONDS FOR SAME.

(Sec. 286.) Par. 21. Said board in its discretion shall have power to repair, extend and improve the main and distributing pipes in the city and all other parts of the water works of the city, and may also provide an additional supply of water as the same shall be needed whenever requisite means are provided for that purpose. Whenever said board shall deem such work necessary, it shall communicate its determination to the Common Council with its reasons therefor, and also a general plan of the work proposed with an estimate of the cost thereof, whereupon the Common Council is authorized to borrow such money on the faith of the city for the purpose of defraying the expense of such work as it may deem expedient, not exceeding such estimate, for a term not exceeding twenty years at a rate of interest not exceeding five per cent. per annum, and for such purpose may issue the bonds of the city, signed by the mayor and countersigned by the comptroller, and in such forms and sums as the Common Council shall direct, and such bonds shall be disposed of under the direction of the Common Council or of the mayor, upon such terms as may be deemed advisable, but not for less than the par value thereof, and the avails shall be applied to such purposes and

for no other purpose: Provided, That nothing in this section contained shall be so construed as to authorize the incurring of any bonded indebtedness against the city in excess of that authorized by this act for any of the purposes aforesaid, unless the qualified electors, voting upon such question, shall have authorized the issuing of said bonds by a majority of their votes cast thereon at any regular election or at a special election called for the purpose of voting upon such question.

APPROPRIATION OF PRIVATE PROPERTY, COUNCIL TO PROVIDE MEANS, ETC.

(Sec. 287.) Par. 22. In case it shall be necessary in the judgment of the Board of Public Works, such contemplated action being approved by the Common Council, to appropriate private property either within or without the city, for the construction, maintenance or due care and operation of the water works, the right to occupy and hold the same, and the ownership therein and thereto, may be acquired by the city in the manner and with like effect as provided in this act for the taking of private property for public uses. Provided, That before any contract for constructing, extending, repairing or improving said water works shall have been entered into, the Common Council shall legally provide the means to meet the estimated cost thereof in accordance with the provisions of this act for raising money.

BOARD TO TAKE PROPERTY REQUIRED FOR WATER SUPPLY, ETC., COMPENSATION FOR SAME.

(Sec. 288.) Par. 23. Said board for the city and under its direction, its agents, employees and workmen, are hereby authorized to enter upon any real estate or water within or without the corporate limits of the city for the purpose of making surveys and to agree with the owners of any real estate, property, rights or privileges, which may be required for the purpose of obtaining, or conveying a supply of water to, in or through said city, as to the amount of compensation to be paid said owner; and also for obtaining the right of flowage of water upon real estate of any owner thereof and of erecting dikes thereon, and the compensation to be paid to the owner therefor. In case of a disagreement between the board and the owner of any real estate, property, rights or privileges which may be required for such purpose by any operation connected therewith, as to the amount of compensation to be paid such owner, or in case such owner shall be a minor, insane or a non-resident of the state, the same shall be reported to the Common Council by said board and thereupon said Common Council shall cause such proceedings to be instituted and prosecuted, in the name of and in behalf of said city, as are prescribed in this act or authorized by the general statutes of the state for the condemnation of real estate taken for public improvements.

AWARD OF DAMAGES.

(Sec. 289.) Par. 24. When the amount is found by the jury provided for in the preceding sections, the value of the land taken and reported as damages, such damages shall be paid into the city treasury for any such owner, and the Common Council shall have the right to accept so much real estate, property, rights or privileges as may be covered by the finding of the jury for all purposes contemplated by said proceedings, and the person in whose behalf such finding of the jury is made shall be entitled to draw the amount from

the city treasury upon giving a receipt therefor expressing therein that such amount is in full for all damages sustained by him in the premises.

**INJURY OF WORK, PROPERTY, ETC., POLLUTION OF WATER—
PUNISHMENT FOR.**

(Sec. 290.) Par. 25. If any person shall do or cause to be done any act whereby any work, material or property selected or used for the purpose of procuring or keeping a supply of water for the city, shall in any manner be injured, or shall pollute any such water, he shall be deemed guilty of a misdemeanor for each of such acts committed, and upon conviction thereof in any court of competent jurisdiction, he shall be punished by a fine of not less than five dollars or more than five hundred dollars and costs of prosecution, or by imprisonment for not less than thirty days or more than one year in the common jail for Kent county. In case such fine and costs are not paid such convicted person may be imprisoned in said jail for a period not to exceed thirty days if such fine and costs are not sooner paid.

TAPPING OF MAINS, ETC., WITHOUT AUTHORITY.

(Sec. 291.) Par. 26. No person shall without the authority of the board of public works through the authority delegated by it to any of its agents or employees, perforate or bore, or cause to be perforated or bored, any reservoir, distributing pipe or main belonging to the water works of the city, or make or cause to be made any connection or communication whatever with said reservoir, distributing pipe or main, or dig up or molest the same. Any person offending in any of the matters aforesaid shall be deemed guilty of a misdemeanor for each offense so committed and subject to the fine, penalties and imprisonment imposed and provided for in the preceding section.

No person shall interfere with the water works of said city or any part thereof, or in any manner diminish or prevent the supply of water for the extinguishment of fires in said city. Any person interfering therewith in the manner above mentioned shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be subject to the same fine, penalty and imprisonment provided in the preceding section.

**EMPLOYMENT OF HELP—RULES AND REGULATIONS REGARDING USE OF
WATER BY CONSUMERS, ETC.**

(Sec. 292.) Par. 27. Said board shall have power to employ such agents, employees, and laborers as may be necessary in the care, management and maintenance of such water works, and fix their compensation; said board shall establish the rates to be paid by consumers of water, and make rules and regulations for connecting the water works with private property and in relation to the use of water supplied thereby to consumers and premises, and may deprive such customers and premises of a supply of water from such water works until all arrearages for water supplied are paid, and may also enforce the payment of the same by a suit commenced in the name of the city in any court of competent jurisdiction. All charges for water supplied to any consumer and to any premises under the rules and regulations as aforesaid, and also the cost of the service pipes as provided for in this title shall be, in either case, a lien upon the premises to which said service pipe was laid until paid, and such lien may be enforced in manner and form as is provided for in this act for the construction and repair of sidewalks.

LICENSE OF PLUMBERS, DRAIN LAYERS, ETC.

(Sec. 293.) Par. 28. Said board shall also have power to license plumbers, drain layers, or other competent persons, to lay service pipes and lateral drains to connect with public water mains and public sewers, and no person shall dig or cause digging to be done in any street, highway, alley, lane, court, public place or public ground in said city, for the purpose of making such water or sewer connections, without first obtaining from said board a permit therefor.

No person other than those holding an unrevoked license from the board shall extend or do any plumbing on any private pipe connected directly or indirectly with any public water main or public sewer, or connect any private pipe with any public water main or public sewer.

In case any person holding a license from said board shall fail to comply with any of the rules, regulations or requirements made by said board applicable to person holding the same, such license may be revoked by said board.

EMPLOYEES TO REPORT TO BOARD—RESTORATION OF STREETS AFTER DISTURBING SAME.

(Sec. 294.) Par. 29. All agents, superintendents and engineers in the employ of or licensed by said board, shall make report to said board of their doings from time to time, in accordance with such rules, regulations and requirements as said board may legally make in the premises, and in all things shall conform to such rules, regulations and requirements. The board shall have power to compel any person acting under authority from it, to restore any sidewalk, street, pavement, highway, alley, lane, court, public place or public ground that he shall dig up or disturb to a condition that shall be satisfactory to the city engineer.

POWERS REGARDING FULFILLMENT OF CONTRACTS.

(Sec. 295.) Par. 30. Said board shall reserve the right in all contracts to determine finally all questions as to the proper performance of such contracts and as to the completion of the work specified therein and in case of the improper, dilatory or imperfect performance thereof, to suspend the work at any time, to order the partial or entire reconstruction of the same, or to relet the work covered by such contract, or any unfinished portion thereof whenever from unreasonable delay in the work or for other just cause, it shall deem such contract forfeited, and power is hereby given said board to determine all such questions arising under any such contract according to the true intent and meaning thereof. Said board also reserve the right in all contracts when it shall become satisfied that the work provided for in any contract will not be completed within the time limited, to place additional men and teams on said work and supply additional material if necessary, and render such assistance as it may deem advisable for the completion of such contract, and all such costs and expense so made shall be charged to the contractor and retained by said board out of the contract price.

PROSECUTION FOR BREACH OF CONTRACT, GUARANTEE, ETC.

(Sec. 296.) Par. 31. Said board is hereby authorized to commence and prosecute in the name of the city any suit or proceedings for the recovery of any penalty or forfeiture incurred by any person under the provisions of this act, or for damages for breach of any

contract authorized to be made and entered into by said board, or to enforce the performance of such contract under the provisions of this title.

Whenever any public street shall be improved and the contract for such improvement shall be accompanied by a guarantee for a year or more, said Board of Public Works shall retain control of such street until the expiration of the time of such guarantee, so far as may be necessary to compel the contractor to carry out the provisions of such guarantee.

PLATS OF REAL ESTATE TO BE APPROVED BY BOARD—GRADE LINES TO BE ESTABLISHED.

(Sec. 297.) Par. 32. In all cases where real estate in the city shall hereafter be subdivided into lots and blocks, or into lots or blocks, and into streets, highways, alleys, lanes, courts, public places or public grounds, the map or plat thereof shall be submitted to the Board of Public Works for its approval, and no such map or plat shall be recorded or have any validity until approved by said board, and such approval shall be certified to by an endorsement on said map or plat signed by the president of said board, and a copy thereof shall be placed on file in the office of said board. The grade line of all such streets, highways, lanes, alleys, courts, public places and public grounds shall be established by said board immediately after such map or plat shall be recorded as aforesaid.

RULES AND REGULATIONS REGARDING TAPPING AND MAKING CONNECTIONS WITH SEWERS.

(Sec. 298.) Par. 33. The Board of Public Works shall have authority to make and enforce such rules and regulations in reference to tapping and making connections with public sewers for draining lots or premises as it may deem for the public interest. Any person tapping or making connection with any public water main or public sewer, in violation of such rules and regulations, shall on conviction thereof, be liable to a fine not exceeding fifty dollars and costs, or imprisonment in the common jail for the county of Kent, for a period not exceeding thirty days. In case such convicted person does not pay the fine and costs as aforesaid, he may be imprisoned in said jail, for a period of not more than thirty days unless such fine and costs are sooner paid. He shall in addition thereto be liable to the city for all damages caused by such unlawful interference.

DAMAGE TO PROPERTY UNDER CHARGE OF BOARD AND PROSECUTION FOR SAME.

(Sec. 299.) Par. 34. Whenever any damage shall be done by any person to any of the property under the charge and control of the Board of Public Works, said board may cause suit to be brought against such person in the name of the city of Grand Rapids, in any court of competent jurisdiction; and whenever any such suit shall be brought, it shall be the duty of said board to attend to the prompt prosecution thereof, and to see that any judgment obtained on account thereof shall be carried into effect. All moneys obtained because of any such suit, over and above the actual costs and expenditures therein, shall be immediately paid into the city treasury by said board and placed in such fund as the Common Council may direct. Said board shall make a detailed statement of the money received from said suit, and the costs and expenses thereof to the Common Council

at its next regular session after the receipt of such money as aforesaid.

CONTRACTOR LIABLE FOR DAMAGE TO PERSONS OR PROPERTY—IN CASE OF NEGLIGENCE TO PROPERLY GUARD.

(Sec. 300.) Par. 35. If any contractor shall fail to keep up sufficient fence or protection guards to prevent damage or injury to persons or property, or shall be guilty of other negligence in doing work under contract, and injury to persons or property shall occur by reason of such default or negligence, the contractor guilty of such default or negligence shall be liable to the person injured in person or property, for the damage sustained, to be recovered with costs in the proper form of action in any court of competent jurisdiction.

TITLE IX.

BOARD OF POLICE AND FIRE COMMISSIONERS.

GOVERNMENT AND DISCIPLINE VESTED IN.

(Sec. 305.) Par. 1. All the powers and duties connected with and incident to the government and discipline of the police and fire departments of the city shall be, as hereinafter provided, vested in and exercised by a board of five commissioners, to be known as "The Board of Police and Fire Commissioners" of the City of Grand Rapids, a majority of whom shall constitute a quorum for the transaction of business. Such board shall be appointed as hereinafter provided.

APPOINTMENT OF MEMBERS—TERMS OF OFFICE, ETC.—VACANCIES.

(Sec. 306.) Par. 2. The full term of each member of the Board of Police and Fire Commissioners shall be five years and until his successor is appointed and qualified. The members of said Board of Police and Fire Commissioners, under the charter provisions existing prior to the taking effect of this act, shall continue to serve out their respective terms after the taking effect of this act. The appointment of members of said board shall be made by the mayor, but no more than three members of said board at any one time shall be of any one political party. Whenever the term of office of any member of the present Board of Police and Fire Commissioners shall expire, his successor shall be appointed by the mayor within twenty-one days thereafter, and his term of office shall date from the expiration of the term of office of the member whom he succeeds. Vacancies occurring in the present board or in any future board shall be filled for the unexpired term.

WHO ELIGIBLE AS COMMISSIONERS.

(Sec. 307.) Par. 3. Members of said Board of Police and Fire Commissioners shall serve without any compensation whatever. No person shall be eligible to said board unless he shall then be an elector and resident of the city, nor shall any person be eligible who holds any elective or political office, or any office by virtue of the appointment of the mayor or Common Council of said city, and any of said commissioners shall be deemed to have vacated his office in the event of his accepting or holding any such office in said city.

PRESIDENT AND SECRETARY OF BOARD—OFFICES—MEETINGS—RECORDS—CLAIMS AND ACCOUNTS AGAINST.

(Sec. 308.) Par. 4. The said board shall annually elect one of its members president thereof to act until his successor is elected, and shall fill any vacancy in such office as president. It shall also annually appoint an elector of the City of Grand Rapids to be secretary of the board and fix his compensation. It shall provide an office in the building used for the Police Court and police purposes for its use, and for the use of its secretary, and hold therein regular meetings at least once a week, and such

special meetings as it may from time to time provide, and cause full and accurate records of the same and of all business transacted by the board to be kept by the secretary. It shall furnish such office with all the necessary furniture, record books, stationery, etc., for the use of the board. The secretary of said board shall keep a separate account of all expenditures ordered by the board, an account of the police and fire departments, and of all expenses incurred by the board in managing and maintaining said department. The board shall report to the Common Council monthly the conditions and needs of the police and fire departments and the probable expense of conducting each for the ensuing month, together with the number of men employed in each of said departments. Said board shall also certify from time to time to the city comptroller all claims, accounts and demands against the city for or on account of said police and fire departments, as shall have been approved by the board, and the city comptroller shall report the same to the Common Council for payment in all cases where the expenditure involved is included within the detailed annual estimate, and in all other cases he shall report the item to the Common Council for its action. Said board shall also report to the comptroller any claim or demand the validity of which may be in doubt.

CHIEF OF POLICE—SPECIAL POLICE, ETC.—SERGEANTS, CAPTAINS, ETC. —COMPENSATION.

(Sec. 309.) Par. 5. Said board shall have full power to appoint a chief of police, to hold his position during good behavior and efficient service, and who shall be removed only for sufficient cause shown, by a majority vote of all of the members of said board. It shall also appoint police constables, special policemen, additional policemen and watchmen, subject to such limitations and restrictions as to qualifications as are provided for in this act. It shall have power to appoint as many police constables and watchmen as it may deem necessary, but not exceeding three for every two thousand inhabitants of the city. It may designate one or more of the police constables to be sergeants, captains and lieutenants of police, and as such to exercise control of the police force as prescribed by the regulations of the board. Said board may fix the compensation of the chief of police and all persons appointed by it to serve upon the police force or in connection with it, as provided for in this title.

SEALER OF WEIGHTS AND MEASURES.

(Sec. 310.) Par. 6. The said board shall designate one of its police constables as a sealer of weights and measures, and such officer shall be known as the "Sealer of Weights and Measures." The said sealer of weights and measures shall devote his entire time to the duties of his office, and try and prove all scales, beams, weights and measures used in said city for the purpose of buying and selling, and shall perform all of the duties required by the ordinances of the city. It shall be the duty of said sealer of weights and measures to make complaint and prosecute for each and every violation of such ordinances or of the laws of the state of Michigan relative to weights and measures.

APPOINTMENT OF SPECIAL POLICE CONSTABLES, ETC.

(Sec. 311.) Par. 7. Said Board of Police and Fire Commissioners may appoint as many special police constables, with or without compensation, in times of special emergency, or in cases of danger from riot or other cause of alarm, as it may deem expedient, or as the Common Council or mayor may request. Whenever it may seem proper to said board it may appoint any number of special police

constables to do duty at any designated place within the city upon the application of any person or persons showing the necessity therefor, but at the expense of such person or persons. The special policemen so appointed shall perform duty only at the places designated by the board and shall continue in office only at the pleasure of the board for a term not exceeding one year. All persons appointed by the board under this section and the preceding section shall be citizens of the United States and shall have been continuous residents of the city for at least three months next preceding such appointment.

POWER AND AUTHORITY OF POLICE OFFICERS.

(Sec. 312.) Par. 8. The chief of police, police officers, police constables and special policemen shall have and possess the power and authority usually conferred upon metropolitan police. They or or either of them shall be authorized to serve any criminal warrant or process issued by the police court of the city of Grand Rapids or the superior court of said city, including writs of subpoena or other process in criminal or quasi criminal proceedings issued by said courts, in the same manner and with like authority as the sheriff of the county of Kent may serve such warrants, process or orders in any part of the state of Michigan. Whenever any crime shall have been committed in said city and the person or persons accused or suspected of being guilty of a felony shall flee from justice, the said police officers or members of the police force of the city of Grand Rapids shall have power, and it shall be their duty to pursue and arrest such accused or suspected person or persons anywhere within the state of Michigan, and return them to the proper court having jurisdiction of the offense, for examination or trial.

(Sec. 313.) Par. 9. The chief of police, police officers and police constables of said city in addition to the powers, duties and authority possessed by them at common law and the laws of this state and the authority conferred in the preceding section, in matters of a criminal nature, shall have power to arrest without process all persons who shall in the presence of the arresting officer be engaged in the violation of any law or ordinance, and such persons may be detained in custody until complaint can be made and process issue for their arrest and trial; and it shall be the duty of such officer to make such complaint and procure such process in the proper court as speedily as possible after such arrest.

DISMISSAL OF MEMBERS OF POLICE FORCE, ETC.

(Sec. 314.) Par. 10. The said Board of Police and Fire Commissioners may whenever it shall seem to them in the interests of the service of the city, dismiss the chief of police for reasons hereinbefore provided, and may dismiss any other officer or member of the police force or watchman with or without charges or trial, and no such dismissed person shall be entitled to any compensation after such dismissal, and such board may at pleasure change any member of said police department from one grade of service to another, and change the amount of compensation of any member of the department at any time, and suspend any member of the department with loss of pay for such time as it may fix.

RULES AND REGULATIONS FOR GOVERNMENT AND DISCIPLINE OF POLICE DEPARTMENT.

(Sec. 315.) Par. 11. Said board shall have power and it shall be its duty to make all such rules and regulations for the government

and discipline of said police department as it may deem best calculated to secure thoroughness and efficiency. It shall prescribe suitable uniforms and badges for the several members of the department, and establish proper regulations for the care and management of such police stations as may be provided by the Common Council for the accommodation of the police force for the lodging of vagrants and disorderly persons and for the temporary detention of persons arrested for offenses. It shall purchase all supplies and materials needed for the use of the department. It may adopt such system of reports from the members of the force to the chief and from the chief to the board as it shall find desirable, and may in its discretion require a bond to the city from the chief or any member of the department as security for the proper performance of his duties. It shall prescribe the duties of the chief of police and of all regular and special police constables, and shall provide for the preservation of the public peace, the prevention of crime, the arrest of all offenders against the peace and good order of the city, and of all persons violating the ordinances of said city or the laws of the state. It shall provide for the protection of the rights of all persons and property, for the preservation of order at fires and at all railroad depots and steamboat landings, and shall cause the enforcement of all the ordinances of the city and the laws of the state. It shall be the duty of said board at all times whenever consistent with the regulations of the board and the provisions of this act, to furnish all information desired and comply with all requirements made by the Common Council of said city or the mayor thereof.

FIRE DEPARTMENT—CARE AND CONTROL OF.

(Sec. 316.) Par. 12. The Board of Police and Fire Commissioners shall have the keeping and custody of all engine houses, fire engines and apparatus, horses, hose, implements, tools, bells, bell-towers, fire alarm telegraph and all other property of whatever nature connected with the management of the fire department. The complete care and control of the fire department shall be vested in said board, and it shall be its duty to maintain said department and keep the same in good order, and to preserve all rules and regulations for the government of the same, and may prescribe reasonable and legal fines and penalties for the breach of any of such rules or regulations on the part of its employees or appointees.

APPOINTMENT OF FIRE MARSHAL, ASSISTANTS AND EMPLOYEES— RULES AND REGULATIONS TO BE PUBLISHED.

(Sec. 317.) Par. 13. Said board shall appoint one fire marshal to hold his position during good behavior and efficient service, to be removed only for sufficient cause by a majority vote of the members of said board. It may appoint as many assistant marshals as it may deem necessary and a proper number of firemen, hook and ladder men, fire wardens and other employes, all to have the privileges and exemptions of firemen and to hold their appointments during the pleasure of said board. Said board shall from time to time, as it may deem proper, prescribe and publish in convenient form for use a system of rules and regulations for the government of the fire department. All persons appointed by said board under the provisions of this section shall be citizens of the United States and continuous residents of the city of Grand Rapids for at least three months next preceding such appointment.

SALARIES OF FIRE MARSHAL AND EMPLOYEES—BOND OF FIRE MARSHAL—BOARD TO HAVE POWER TO PURCHASE FIRE ENGINES, APPARATUS, ETC., AND TO REPAIR ENGINE HOUSES, BUT NOT TO PURCHASE REAL ESTATE.

(Sec. 318.) Par. 14. Said board shall fix the salary of the fire marshal and other persons connected with the fire department of the city and may require the fire marshal to execute a bond to said city conditioned as required in this act, and in such sum as it may deem best to secure the faithful performance of his duties. Said board shall have power to purchase all fire engines with their hose and apparatus, horses, hose carts, ladders, trucks, fire hooks, fire buckets and other tools, implements and conveniences for the extinguishment of fires and to prevent injuries by fires, as may from time to time be necessary, and repair or replace the same. It shall have power to make all needed repairs to any of the engine houses now built in said city, but it shall not have power to purchase real estate.

CONSTRUCTION OF ENGINE HOUSES—LOCATION OF SITES—FIRE DISTRICTS—INSPECTION OF BUILDINGS—CONTROL CISTERNS AND HYDRANTS—FIRE ALARM TELEGRAPH.

(Sec. 319.) Par. 15. Said Board of Police and Fire Commissioners shall control and manage the construction of engine houses in the city of Grand Rapids, and have the right to make contracts therefor in the name of the city, subject, however, to be approved by the Common Council of the city, and power to locate sites for engine houses and police stations; to organize said city into as many fire districts as it may deem necessary; to prescribe rules for the inspection of buildings by fire wardens and prescribe the duties of fire wardens; to control the cisterns and hydrants in use by said fire department; to direct the manner in which the bells of the city shall be tolled or rung in case of fire or fire alarms, and to establish and maintain a system of fire alarm telegraph, and such other telegraphic or telephonic apparatus as may be necessary to secure the highest efficiency of the fire department.

FIRE MARSHAL TO HAVE GENERAL SUPERINTENDENCE OF FIRE APPARATUS AND FIRE DEPARTMENT EMPLOYEES.

(Sec. 320.) Par. 16. The fire marshal under the direction of the board shall have the custody and general superintendence of the fire engines, engine houses, hooks, ladders, hose, horses, public cisterns, hydrants and other property and conveniences for the extinguishment and prevention of fires; and it shall be his duty to see that the same are kept in order, and to see that the rules, regulations and ordinances relative to the fire department and to the prevention and extinguishment of fires are duly executed, and to make detailed and particular reports of the state of the department, the conduct of the members thereof, and such other matters as may be required by the rules and regulations, to the said Board of Police and Fire Commissioners.

DUTIES OF FIRE MARSHAL AND ASSISTANTS AT FIRES—REPORTS FROM FIRE MARSHAL—SENDING FIRE ENGINES OUT OF TOWN.

(Sec. 321.) Par. 17. Said board shall prescribe the duties of the fire marshal and other members of the fire department at fires and may vest in them such powers as shall be deemed necessary to preserve property from being stolen, and to extinguish and prevent fires; but in no case shall any member of said board or any officer of the city

control or direct the fire marshal or assistant during any fire. It may by rule provide for the removal and keeping away from fires of all idle, disorderly or suspicious persons, and may confer powers for that purpose upon the marshals, fire wardens or other officers of the city. It shall require reports from the fire marshal or other officers in charge of the department of all fires, fire alarms, losses and insurance on all property destroyed, and keep proper record thereof, and shall report the same monthly to the Common Council of said city. And it shall be competent for said board at any time if in its best judgment it seems proper, to send any steam or fire engine with hose and apparatus to the relief of any community in the vicinity of said city.

DESTRUCTION OF HAZARDOUS BUILDINGS IN CASE OF FIRE— DAMAGES FOR.

(Sec. 322.) Par. 18. Whenever any building in the city shall be on fire it shall be lawful for any fire marshal in charge at such fire, with the consent of the Board of Police and Fire Commissioners, to order such building or any part thereof, or any other building or any part thereof, not on fire, but which they may deem hazardous and likely to communicate fire to other buildings, to be pulled down and destroyed. In such case no action shall be maintained against any person or the city therefor. If any person pecuniarily interested in any such building destroyed shall consider that he has a claim against the city for the destruction of such building he shall, within three months thereafter, apply to the Common Council to assess and pay his damages.

TIME AND MANNER OF FILING SUCH CLAIM FOR DAMAGE.

(Sec. 323.) Par. 19. Such application shall be made in writing, signed and sworn to by the claimant and shall contain a statement of the amount claimed in detail, with the names of the witnesses by whom he proposes to establish his claim, and the provisions of this act applying to the filing of claims against the city of Grand Rapids for damages, and the proceedings to be taken thereon to determine the validity of such claims, shall be deemed applicable to such claim or claims. Said application shall be filed in the office of the city clerk who shall endorse on the back thereof the date of receipt and filing. Within three months after the filing of said claim the Common Council shall either pay the amount it and the claimant shall have agreed upon for damages, or if no such agreement shall have been effected, the Common Council shall proceed to determine the amount of such damages, if any, or reject such claim.

IN CASE OF SUIT TO RECOVER DAMAGES.

(Sec. 324.) Par. 20. If the Common Council shall reject any claim presented under the preceding section, the claimant may within three months thereafter, or within six months from the time of filing said claim, bring suit in the proper court against the city of Grand Rapids to recover his damages thereon, and in the trial of the issue made upon any such claim the court or jury shall take into account the probability of the building having been destroyed or injured by fire if it had not been so pulled down, and may decide that no damage should be allowed to such person; but if the judgment or verdict shall be against the city, then the amount thereof shall be paid by the city from its general fund to such claimant, either party to such issue having the right to appeal to the Supreme court.

**ENFORCEMENT OF ORDINANCES AND LAWS REGARDING PREVENTION
AND EXTINGUISHMENT OF FIRES.**

(Sec. 325.) Par. 21. Said board shall see that all ordinances and regulations of the Common Council and all provisions of this act relating to the fire department and to the prevention and extinguishment of fires, and all the provisions of the general laws of the state relating thereto, are faithfully enforced, and it may at all times call upon and direct the police force to enforce the same.

**ESTIMATE OF EXPENSE OF MAINTAINING POLICE AND FIRE
DEPARTMENTS.**

(Sec. 326.) Par. 22. It shall be the duty of said board to prepare and submit to the Common Council for its ratification or amendment on or before the first day of April in each year, estimates of the whole expense of maintaining the police and fire departments of the city for the ensuing year from the first day of July, in accordance with the provisions of this title. Such estimates shall be separate for the two departments and shall specify in detail the objects of the expenditures, the sum desired for each, and any special reasons the board may have for desiring the same. The amount of money for each department which the Common Council shall determine by resolution to be necessary, shall be certified by the city clerk to the board of assessors and also to the city comptroller, with the other amounts determined to be raised by tax for city, highway, sewer and other purposes in accordance with the provisions of this act.

**NO INDEBTEDNESS TO BE INCURRED THAT IS NOT PROVIDED FOR IN
SUCH ESTIMATE.**

(Sec. 327.) Par. 23. Said board shall not incur any indebtedness nor enter into any contract requiring the payment of money, unless such indebtedness or such contract is provided for in the said detailed annual estimate required in the preceding section, unless specially authorized so to do by a majority of all the aldermen elect of the Common Council.

**COMPENSATION TO MEMBERS OF POLICE AND FIRE DEPARTMENTS FOR
INJURIES INCURRED WHILE IN DISCHARGE OF DUTIES.**

(Sec. 328.) Par. 24. Said board shall have power to allow compensation to members of the police and fire departments for lost time occasioned by injuries incurred while in the discharge of duties: Provided, That such compensation shall not exceed two-thirds of the regular pay of such disabled member and shall not continue beyond sixty days. The Common Council may upon the recommendation of said board provide suitable compensation for any injury or injuries that any fireman or member of the fire department may have received in his person or property resulting from the performance of his duty as a fireman or member of the fire department, such compensation to be paid from the general or contingent fund of the city.

PENSIONS TO DISABLED POLICEMEN AND FIREMEN.

(Sec. 329.) Par. 25. Any person who has been a member of the police or fire departments of the city of Grand Rapids so that his combined service in either or both of said departments shall have been for a period of twenty years subsequent to the first day of June, 1875; or who has been employed by the Board of Police and Fire Commissioners of the city of Grand Rapids for a period of

twenty years subsequent to the first day of June, 1875, may be placed on the list of retired policemen and firemen on account of disability arising from injuries received or sickness occasioned by exposure while in the active discharge of his duties, by a vote of four-fifths of said commissioners: Provided, That it shall require a certificate of such disability signed by the city physician and two other physicians and surgeons selected by the Common Council of said city. Any person in the employment of said Board of Police and Fire Commissioners who may hereafter be totally disabled from any further duty while in the discharge of his duty as such policeman or such fireman may, in like manner, be placed on the list of retired policemen and firemen; and all such retired policemen and firemen shall receive annually thereafter a sum equal to one-half of the amount paid to full paid firemen and policemen filling a like position at the time of their retirement, to be paid in twelve monthly payments during the remainder of their natural lives, such moneys to be collected and paid as hereinafter stated: Provided, however, That no person so retired shall receive more than four hundred and fifty dollars per annum: And, provided, further, That said Board of Police and Fire Commissioners may place on the list of such persons any person who may have become totally disabled while in the employment of said board prior to the passage of this act.

PENSIONS FOR WIDOW AND CHILDREN OR PARENTS IN CASE EMPLOYEE IS KILLED WHILE IN DISCHARGE OF DUTY.

(Sec. 330.) Par. 26. In case any person in the employ of the Board of Police and Fire Commissioners of the city of Grand Rapids shall be killed while in the discharge of his duty, or receive injuries which shall result in his death within one year thereafter, the wife or children, or if there be no wife or children, the dependent parent or parents of such person shall by a vote of four-fifths of said Board of Police and Fire Commissioners, be paid a pension for a period of five years; the wife shall receive the sum of one hundred dollars annually, in twelve monthly installments of eight and thirty-three one-hundredths dollars each and during the term of five years or until she remarries or dies, in which case all payment of moneys under this act to such widow shall cease, but shall be paid to such children as shall be under the age of sixteen years at the time of the marriage or death of the widow, the money to be equally divided among such children; such child or children shall receive in equal payments according to the number of such children the same amount as would have been paid the widow; such payments to be made monthly as hereinafter provided and continue until such child or children shall have attained the age of sixteen years, unless they die before reaching that age, but not for a longer period than five years or if there shall be no widow or children, then the dependant parent or parents may receive the same benefits as are provided in this title for the widow. The moneys for the payment of such pensions shall be collected and paid in the manner hereinafter provided.

NAMES PLACED ON RETIRED LIST TO BE REPORTED TO COMPTROLLER.

(Sec. 331.) Par. 27. Whenever any person is placed on the retired list as provided in this title, it shall be the duty of the Board of Police and Fire Commissioners to promptly report its action to the comptroller of the city giving the names of the persons retired, together with a full statement of the facts connected with such person or persons. It shall be the duty of the comptroller to register

the name of such person as being a retired policeman or fireman of the police or fire department of the city of Grand Rapids, as the case may be, and as hereinafter provided audit the claims due them under this title.

LIST, HISTORY AND EVIDENCE OF PENSIONERS TO BE KEPT BY SECRETARY OF BOARD.

(Sec. 332.) Par. 28. There shall be kept in the office of the Board of Police and Fire Commissioners by the secretary of the board, a book to be known as the "List of Retired Policemen and Firemen," which shall give a full and complete history and record of the action of said board in retiring any and all persons under this title, their names, date of joining the department, date of retirement and the reason therefor of any and all persons retired. When the widow, or children, or parent or parents, or either of them, shall be entitled to a pension, as herein provided, such widow or children or parent or parents shall make application for a pension to the Board of Police and Fire Commissioners through the secretary of such board on a form to be provided by such board. Accompanying such application shall be the proof of the marriage of the deceased with the widow of the claimant to be established by the marriage certificate or other competent evidence of the marriage relation. Proof of the birth of the children shall be shown by the certificate of the attending physician or other competent evidence, or in the case of the parent or parents satisfactory proof of the parentage shall be shown. All applications and proofs shall be retained in the custody of the Board of Police and Fire Commissioners, and whenever such applications for pensions are allowed by the board, due notice of such action, with the names of all pensioners, shall be given to the comptroller who shall cause the names of such persons to be registered in his office as pensioners of the police and fire departments of the city of Grand Rapids.

COMPTROLLER TO SUBMIT ESTIMATES OF MONEY NECESSARY TO PAY SUCH PENSIONS—WHEN TRANSFERS MAY BE MADE.

(Sec. 333.) Par. 29. On or before the first day of April in each year the comptroller shall submit to the Common Council his estimate of the amount of money necessary to pay such retired policemen, firemen and pensioners entitled to moneys under this title for the following fiscal year, and the Common Council shall appropriate and cause to be levied and collected by taxation such sum of money as shall be required to make the payments provided for by this title. It is further provided that in the second and all subsequent estimates the comptroller shall include a sum equal to the amount of unpaid taxes charged back to the fund provided by this title at the end of the preceding fiscal year. All moneys collected under this title shall be placed to the credit of the "Police and Fire Department Retired and Pension Fund," and if at any time the cash balance shall not be sufficient to pay matured claims, the Common Council is authorized to transfer from the contingent fund of said city such further sum as may be necessary: Provided, That such amount so transferred shall not exceed the amount of the uncollected appropriation.

TIME AND MANNER OF PAYING PENSIONS.

(Sec. 334.) Par. 30. The Board of Police and Fire Commissioners at the last meeting in each month shall order the payment of moneys due all persons under this title, and a voucher shall be

prepared for each person so entitled to moneys, the correctness of the same to be duly certified by the chairman of the finance committee of said board, and the fact of the allowance of the claim duly attested by its president. The secretary of said board shall transmit such vouchers to the comptroller of said city, and it shall thereupon be the duty of said comptroller to include the same in his next report to the Common Council in the same manner as other claims against said city are audited and reported by him to said Common Council, the same when allowed to be paid from and charged to the said "Police and Fire Department Retired and Pension Fund."

(Sec. 335.) Par. 31. Before issuing any voucher for the payment of a pension it shall be the duty of the secretary of the Board of Police and Fire Commissioners to examine, under oath, all pensioners, to ascertain if they are at the time entitled to a pension as provided for in this title, and whenever the secretary shall learn any person has ceased to be entitled to a pension he shall record the fact on the roll of pensioners and notify the comptroller of such disability, and thereupon such person shall be dropped from the said rolls: Provided, That the said board of commissioners may by a vote of four-fifths of the members thereof, discontinue the pension and strike from the list the name of any retired policeman or fireman, or parent or parents, and after such action has been taken by said board, such pension shall cease to be audited by the comptroller.

TITLE X.

BOARD OF HEALTH AND POOR COMMISSIONERS.

APPOINTMENT OF COMMISSIONERS AND TERM OF OFFICE.

(Sec. 340.) Par. 1. There shall be a Board of Health and Poor Commissioners appointed by the Mayor, whose terms of office shall be, except as herein otherwise provided, five years each. Not more than three members shall be selected from any one political party. The members of the Board of Health and of the Board of Poor Commissioners in office under the charter in force prior to the taking effect of this act, shall be members of this board, and if there are more than five members of such boards in office at the time this act goes into effect, they shall all constitute the board created by this act until the terms of certain members shall have expired so as to reduce the number to five. The first appointments made hereunder shall be of such a number and for such length of terms as will as near as practicable create a board whose members shall hold for one, two, three, four and five years, so that the term of one member will expire in each year, and on the first Monday of May. The appointments shall be so made that not more than three members of any one political party shall be members at any one time. One member at least of such board shall be a practicing physician and graduate of some legally authorized medical college of this state or of one of the United States, or of any other country.

POWERS AND DUTIES OF BOARD.

(Sec. 341.) Par. 2. The Board of Health and Poor Commissioners as thus constituted shall have all the authority that is conferred upon boards of health by the general laws of this state, not repugnant to the provisions of this title, in addition to the special powers vested in said board by this title, and said board shall be vested with the entire charge and care of poor persons entitled to relief in the city of Grand Rapids, and shall have the same powers and authority as supervisors acting as directors of the poor in townships of the state where the poor are cared for under what is known as the township system, and be subject to the same duties and liabilities as directors of the poor in that regard: Provided, that said board may adopt such plan and system in the administration of the poor laws in the city of Grand Rapids as it may deem adapted to secure the greatest efficiency in the care and relief of the poor.

HEALTH OFFICER.

(Sec. 342.) Par. 3. It shall be the duty of said board to appoint a health officer who shall be a practicing physician and graduate of some authorized medical college. His term of office shall be two years. Such health officer may be removed from office for lack of good behavior or efficient service by a majority vote of all of the members of such board. He shall be the chief executive officer of the

health department, and of the poor department unless the board shall determine to make its secretary superintendent of the poor, and receive a salary not to exceed the sum of two thousand dollars per annum to be fixed by said board, payable monthly out of the general fund of the city in the same manner as the salaries of other city officers are paid. He shall exercise the powers and perform the duties conferred upon him by the provisions of this title and the general laws of this state in regard to health officers not inconsistent with the provisions of this title, and he shall exercise the powers and perform the duties not inconsistent with the general laws of this state that shall from time to time be required of him by said board, and devote his entire time to the duties of his office.

CITY PHYSICIAN.

(Sec. 343.) Par. 4. The said Board of Health and Poor Commissioners shall appoint a city physician. His term of office shall be two years. He may be removed by a majority vote of said board for lack of good behavior or insufficient service. Such city physician shall be a practicing physician and a graduate of some legally authorized medical college of this state or one of the United States, or some other country, whose duty it shall be to prescribe for and treat professionally the poor of said city suffering from sickness, disease or injuries of any kind, and who shall perform such services as may be required by said board or the Common Council. Said city physician shall receive a salary of not to exceed one thousand eight hundred dollars per annum to be fixed by said board, payable monthly out of the general fund of said city in the same manner as the salaries of other city officers are payable; and the said board by and with the approval of the Common Council may provide assistance for the said city physician in the performance of his duties at an expense not to exceed the sum of one thousand dollars in any one year.

FOOD AND MILK INSPECTOR.

(Sec. 344.) Par. 5. The said Board of Health and Poor Commissioners shall upon the going into effect of this act appoint a milk and food inspector for the city of Grand Rapids at a salary not to exceed the sum of twelve hundred dollars per annum. His term of office shall be two years. Such inspector may be removed from office for lack of good behavior and efficient service, by a majority vote of all of the members of said board. He shall perform such duties as may be required of him by state law, the ordinances of the city and the rules and regulations of said board. He shall annually in the month of April in each year make a report to the Common Council of the City of Grand Rapids of his work in the preceding year, and shall report to said Board of Health and Poor Commissioners as often as he may be required by the rules and regulations of said board. The Board of Health and Poor Commissioners may provide such assistant or assistants as may be required by said inspector in the performance of his duties, and provide such compensation for such assistants as may be approved by the Common Council of said city.

PLUMBING INSPECTOR.

(Sec. 345.) Par. 6. Said Board of Health and Poor Commissioners shall also upon the going into effect of this act appoint a plumbing inspector for the city of Grand Rapids at a salary not to exceed the sum of thirteen hundred fifty dollars per annum. His term of office shall be two years. Such plumbing inspector may be

removed from office for lack of good behavior and efficient service by a majority vote of all of the members of said board. The said plumbing inspector shall perform such duties in the inspection of plumbing as may be required by the ordinances of the city of Grand Rapids or any of the laws of the state applicable thereto not inconsistent with the provisions of this title, or that may be required of him by the rules and regulations of said Board of Health and Poor Commissioners.

**HEALTH OFFICER, CITY PHYSICIAN, MILK AND PLUMBING INSPECTOR,
PRIOR TO TAKING EFFECT OF THIS ACT, TO CONTINUE
UNTIL THEIR TERMS OF OFFICE EXPIRE.**

(Sec. 346.) Par. 7. Provided, That the health officer, the city physician, the milk and food inspector and plumbing inspector holding such positions under the charter of the city of Grand Rapids prior to the going into effect of this act, shall continue in such positions hereunder until the expiration of the terms for which they were respectively appointed; and no appointment shall be made by this board for either of said positions until the expiration of the terms of office of the said several officials, unless there shall be a vacancy prior to the expiration of their respective terms of office.

PRESIDENT AND SECRETARY OF BOARD—INSPECTORS—IN CASE SECRETARY ACTS AS SUPERINTENDENT OF POOR.

(Sec. 347.) Par. 8. The said Board of Health and Poor Commissioners shall in the month of May in each year elect one of their members president, whose duty it shall be to preside over all of the meetings of said board. Said board shall have power to appoint a suitable person as secretary of said board and prescribe his duties and fix his compensation at a sum not to exceed fifteen hundred dollars per annum, to be paid monthly out of the general fund of the city in the same manner as the salaries of the officers of said city are payable. The board may constitute and appoint him superintendent of the poor, in which case the health officer shall not exercise any authority over the poor department, but the duties of the superintendent of the poor, in which case the health officer shall not exercise any authority formed by said secretary. His term of office shall be two years, and he may at any time be discharged from his employment by a majority vote of all of the members of said board. He shall devote his entire time to the duties of his employment. It shall be the duty of the secretary to attend all meetings of said Board of Health and Poor Commissioners and keep a record of its proceedings, and such record, or a duly certified copy of the same, or any part thereof, shall be prima facie evidence of the facts therein contained in any court or before any officer. Said board shall also have power to employ inspectors at a compensation not to exceed two dollars per day, in connection with the sanitary and health work of said board, and report such employment and the terms thereof to the Common Council at its next regular session. And such assistance to the Secretary and at such salary as the Common Council shall decide.

OFFICERS OF BOARD AND ITS OFFICES.

(Sec. 348.) Par. 9. Said board shall have offices provided for it and furnished by the city, which shall also be the office of the health officer, of the city physician, of the milk and food inspector and secretary of said board, to be open on all secular days during business hours; and it shall be the duty of said secretary to be in attendance

in said office during such time. Said board shall be furnished with all necessary stationery, furniture and other material needful for the proper discharge of its duties.

MEETINGS OF BOARD—NO COMPENSATION FOR MEMBERS OF BOARD—EXPENSES OF BOARD AND ITS OFFICERS—HOW PAID.

(Sec. 349.) Par. 10. Said board shall meet at least once in each week at its office and as much oftener as may be necessary. A majority of said board shall constitute a quorum for the transaction of business. Members of said board shall serve without compensation. All necessary expenses incurred by said board and its health officer, city physician, milk and food inspector, and secretary, in the discharge of their respective duties shall be proper charges against the city and be audited and paid out of the appropriate funds of the city in the same manner as other charges against the city are audited and paid.

CARE AND PREVENTION OF CONTAGIOUS DISEASES—HOSPITAL, ETC. BOARD MAY ACT SUMMARILY IF DEEMED NECESSARY.

(Sec. 350.) Par. 11. It shall be the duty of said Board of Health and Poor Commissioners to take effectual measures to prevent the entrance of any contagious, pestilential or infectious disease into the city; to stop, detain and examine for such purpose every person coming from any place whom they have good reason to believe is infected with any such disease; to establish, maintain and regulate a suitable hospital at some place within the city or not exceeding two miles beyond its corporate limits; to cause any person who may be infected with any contagious, pestilential or infectious disease within the limits of the city to be removed to the hospital, if in the opinion of the health officer and one other practicing physician in good standing, together with that of one of the members of this board, such removal is found necessary for the preservation of the public health, provided that the removal can be made with safety to the infected person. Said Board of Health and Poor Commissioners may remove or cause to be removed from the city or destroy any furniture, wearing apparel, goods, wares, merchandise or any article of property of any kind which it shall have good reason to suspect of being tainted or infected with any contagious, pestilential or infectious matter, or that shall be likely to pass into such a state as to generate or propagate disease, upon paying for the same as hereinafter provided; to abate all nuisances of every description which are or may become injurious to public health in any manner it may deem expedient, and from time to time perform all acts and make all regulations which it may deem necessary for the preservation of the public health and the suppression of disease in the city; to recommend to the Common Council the passage of such by-laws, ordinances or regulations as it shall deem expedient for the preservation of the public health and the suppression of disease in the city; Provided, That said Board of Health and Poor Commissioners may act summarily and proceed independent of the Common Council of the city, where in its judgment the emergency requires it in the suppression of any public nuisance and the enforcement of its rules and regulations in the premises.

EXPENSE IN ABATEMENT OF NUISANCES, ETC.

(Sec. 351.) Par. 12. Where in the abatement of any public nuisance it becomes necessary to incur expense in connection therewith to be charged up against the property on which the nuisance exists, the Board of Health and Poor Commissioners may, if necessary, act

in the first instance at once, and abate the same; and if it shall have acted independent of the Common Council, and shall immediately report the cost and expense thereof to the Common Council, to the end that the necessary steps may be taken to carry such expense into the proper roll to be enforced against the real estate upon which the nuisance is located. If summary action shall not be required in order to protect the public health the Board of Health and Poor Commissioners shall report to the Common Council and recommend such action to it as it deems advisable in order to abate the nuisance, and act thereafter in such case upon the advice and directions of the Common Council.

BOARD AND OFFICERS TO HAVE POLICE POWER—PENALTY.

(Sec. 352.) Par. 13. The members of the Board of Health and Poor Commissioners, the health officer, city physician, milk and food inspector and plumbing inspector shall have full police power in matters appertaining or belonging to their respective departments, and it shall be their duty to arrest all persons who are, in their sight, engaged in violating any of the by-laws, ordinances or regulations of the city in relation to the health of its citizens. Any violation of any of the said by-laws, ordinances or regulations as aforesaid shall be deemed a misdemeanor punishable by a fine or imprisonment, or both, in the discretion of the court, the fine not to exceed one hundred dollars and the imprisonment not to exceed 90 days in the jail of Kent County.

REPORTS OF BOARD.

(Sec. 353.) Par. 14. Said Board of Health and Poor Commissioners shall report annually to the State Board of Health in the same manner as local boards of health are now or shall hereafter be required by law to report to said State Board of Health. It shall make its report annually on or before the first day of April in each year to the Common Council of the city of Grand Rapids, concerning all sanitary matters, and make such other and further reports to the Common Council as may be required by such body from time to time.

IN CASE OF DESTRUCTION OF PROPERTY—PAY FOR, ETC.

(Sec. 354.) Par. 15. Whenever said Board of Health and Poor Commissioners shall remove from the city or destroy any furniture, wearing apparel, goods, wares, merchandise or any article of property of any kind as provided for in this title, it shall immediately make an itemized list of the same and file such list in the office of said board, and the date of the receipt and filing of the same shall be endorsed on the back thereof by the secretary of said board. Such board shall immediately make a copy of such list and file the same in the office of the city clerk who shall endorse on the back thereof the date of the receipt and the filing of the same. Within sixty days after the filing of such copy in the office of the city clerk as aforesaid, the Common Council shall determine the value of the property so removed from the city, or so destroyed, and shall cause the value of the same as determined by it to be paid out of the general fund, to the person or persons entitled to such property

**OWNERS OF PUBLIC CONVEYANCES TO REPORT ALL PERSONS AFFLICTED WITH CONTAGIOUS DISEASES CARRIED BY THEM
—PENALTY.**

(Sec. 355.) Par. 16. The owner, driver, conductor or other person in charge of any stage coach, railroad car, steamboat or other public conveyance which shall enter the city having on board any person known to him to be sick of any malignant fever or other contagious, pestilential or infectious disease, shall within two hours after the arrival of such person, report in writing the fact to the mayor or to the health officer of said board, with the name of such person and the house or place where he was put down in the city, and every neglect to comply with any of the foregoing provisions shall be deemed a misdemeanor and punishable in manner and form as provided in paragraph 13 of this title.

PENALTY FOR KNOWINGLY BRINGING ANY INFECTED PERSON OR PROPERTY INTO THE CITY.

(Sec. 356.) Par. 17. Any person who shall knowingly bring or cause to be brought into the city any person or any property of any kind tainted or infected with any malignant fever, contagious, pestilential, or infectious disease, shall be deemed guilty of a misdemeanor and punishable in manner and form as provided in paragraph thirteen of this title.

KEEPERS OF HOTELS, ETC., AND PHYSICIANS, TO REPORT ALL CONTAGIOUS DISEASES.

(Sec. 357.) Par. 18. Every keeper of a hotel, lodging house, or boarding house in the city who shall have in his house at any time any person sick with any contagious, pestilential or infectious disease, shall report such fact and the name of such sick person in writing within three hours after such fact shall have come to his knowledge to the mayor or to the said Board of Health and Poor Commissioners or to the health officer thereof. Every physician in the city shall report in writing to the health officer at his office the name, residence and disease of every patient whom he shall attend professionally and who shall be sick of any contagious, pestilential or infectious disease within six hours after the nature of such disease shall have become apparent to the said attending physician. Any violation of any of the provisions of this section shall be deemed a misdemeanor and punishable in manner and form as provided for in paragraph thirteen of this title. All written reports made to the health officer or to the Board of Health and Poor Commissioners shall be written and signed in ink.

CARE OF THE POOR, ETC.

(Sec. 358.) Par. 19. The said Board of Health and Poor Commissioners shall have power and it shall be its duty to employ such assistants as may be necessary to look after and provide for the indigent persons of the city of Grand Rapids efficiently; to fix their compensation and prescribe their duties in such matters and to discharge them at will. It shall have power to make all necessary rules and regulations for the government of the work of the board, the appointment of its officers and committees, and the guidance of its members and employees in the transaction of the business of the department in all its details. It shall provide for and cause to be made careful, kindly, but thorough investigation into the actual circumstances and needs of all applicants for support or assistance, so as to discover and pro-

vide for all who are worthy and entitled to relief, and reject unworthy applications. It shall have the power when deemed wise to impose a labor test on persons asking for assistance from the city requiring them to perform such labor as may be provided in return and compensation for the assistance furnished such persons. It may purchase such supplies as in its judgment may be necessary for the proper performance of its duties hereunder. Until the city shall procure and maintain a hospital of its own said board shall be authorized on reasonable terms to place dependent poor persons who have been disabled by accident or who are sick in private hospitals for surgical operations or medical treatment when it shall deem it necessary.

ESTIMATES OF COST OF HEALTH AND POOR DEPARTMENTS FOR ENSUING YEAR TO BE FILED—CLAIMS AND ACCOUNTS, HOW PAID.

(Sec. 359.) Par. 20. It shall be the duty of said Board of Health and Poor Commissioners to prepare and submit to the Common Council of said city for ratification or amendment on or before the first Monday in April in each year an estimate of the probable cost and expense of maintaining the work of said board as a board of health and sanitation for the ensuing year. It shall also prepare and submit at the same time a separate estimate of the work of said board in connection with the poor department thereof and caring for the poor of said city for the ensuing year specifying the objects of the expenditures in detail, and the sum desired for each with the reasons for the same which the board may have. The amounts of money so estimated to be necessary, or such amount as the Common Council shall by resolution determine to be necessary, shall be certified by the city clerk of said city to the comptroller, with other sums determined to be raised by tax in accordance with the provisions of the charter of the city, and the sums when collected and paid into the city treasury shall be kept as separate funds to be known as the "Health Fund," and the "Poor Fund," to be expended only on the order of said board for the purposes authorized by the estimate and resolution of the Common Council as aforesaid. Said board shall not be authorized to incur any indebtedness nor enter into any contract not provided for or included in said detailed annual estimate for such fiscal year, unless specially authorized so to do by a majority vote of all of the members elect of the Common Council of said city. All accounts, claims and demands for or on account of all matters in charge of the Board of Health and Poor Commissioners shall be itemized and verified and when allowed by the board shall be certified to the comptroller of said city, who shall report the same to the Common Council for payment to be paid from the fund against which such items are properly chargeable, and the said board may also report without recommendation to the comptroller any claim or demand presented to it, the validity of which may be in doubt.

RECORD OF PERSONS IN COUNTY POOR HOUSE, ETC.

(Sec. 360.) Par. 21. The said Board of Health and Poor Commissioners shall keep a careful record of all persons admitted to the county poor house on the order of the board and of the time they are supported therein at city expense, and shall have the right, and it shall be its duty to examine the account presented by the superintendents of the poor to the board of supervisors of Kent county, for all persons maintained in the county home aforesaid at the expense of the city before the same is allowed and ordered spread upon the tax rolls of the city by said board of supervisors.

**NO SETTLEMENT GIVEN ANY PERSON IN CITY WHILE SUPPORTED BY
THE COUNTY OR ANY TOWNSHIP.**

(Sec. 361.) Par. 22. No length of actual residence by any person within the city, while supported wholly or partially at the expense of the county or any township shall operate to give such person a settlement in the city.

**IN CASE OF PERSON ABANDONED OR NEGLECTED—PROPERTY OF PER-
SON RESPONSIBLE MAY BE TAKEN.**

(Sec. 362.) Par. 23. In case any person is abandoned, neglected or not maintained and likely to become chargeable upon the city for support the county superintendents of the poor shall have the same right to take possession of and proceed against the property of the husband or parent responsible therefor, that they have by the general laws of the state, when such person is liable to become chargeable upon the county or township.

TITLE XI.

BOARD OF PARK AND CEMETERY COMMISSIONERS.

PURCHASE AND CONTROL OF PARK AND CEMETERY PROPERTY.

(Sec. 367.) Par. 1. The Common Council of the City of Grand Rapids shall have power to purchase and hold real estate for park and cemetery purposes within or without the city limits and designate appropriate names for such parks and cemeteries. All such real estate, together with that secured by the city previous to the passage of this act, owned by the City of Grand Rapids dedicated to either park or cemetery purposes, together with all properties, buildings and improvements of every kind connected therewith, shall be under the exclusive management of five commissioners who shall constitute a Board of Park and Cemetery Commissioners to be known as "The Board of Park and Cemetery Commissioners" of the City of Grand Rapids, who shall be appointed in the following manner:

APPOINTMENT OF MEMBERS OF BOARD.

(Sec. 368.) Par. 2. There shall be appointed by the mayor of the City of Grand Rapids five members of the Board of Park and Cemetery Commissioners from the electors and freeholders of the City of Grand Rapids, to hold their offices for a period of five years from the date of their appointment, except that the first appointments shall be made for such respective terms that the term of one of the appointees shall expire upon the first Monday of May in each year, and said commissioners shall hold their offices until their successor or successors are appointed and qualified, and their powers and duties shall be as herein provided. Appointments shall be made as of the first Monday of May in each year, excepting that the first appointment may be made as soon as practicable after the taking effect of this provision under enactment by the State Legislature.

COMPENSATION, ETC., FOR MEMBERS—PRESIDENT OF BOARD—WHEN MEMBERS MAY BE REMOVED.

(Sec. 369.) Par. 3. The members of the Board of Park and Cemetery Commissioners shall devote such time as may be necessary to the proper discharge of their duties, and the salary of each of said commissioners shall be one hundred dollars a year, payable quarterly, from the general fund. The member of such board whose term of office shall soonest expire shall be the president thereof. The members of said board may be removed by the mayor at any time, for inefficiency, inattention to their duties or misfeasance; but at the time of such removal the mayor shall make a written report to the Common Council setting forth his reasons for such removal, and the same shall be filed in the office of the city clerk.

**PRESENT BOARD OF CEMETERY COMMISSIONERS TO BE MEMBERS OF
NEW BOARD—RELATIVE TO TRANSFER OF CEMETERY PROPERTY
—FILLING OF VACANCIES.**

(Sec. 370.) Par. 4. The members of the present Board of Cemetery Commissioners of the City of Grand Rapids during the term or terms for which they shall have been appointed for such board, shall be made and constituted by this enactment members of the Board of Park and Cemetery Commissioners. The said Board of Cemetery Commissioners shall, upon the organization of the Board of Park and Cemetery Commissioners hereunder, at once turn over all property held by it to said Board of Park and Cemetery Commissioners, and all special trust funds to the Board of Sinking Fund Commissioners. All legal contracts made by the said Board of Cemetery Commissioners shall be equally binding upon the Board of Park and Cemetery Commissioners. In the event of any vacancy, for any cause, upon the Board of Park and Cemetery Commissioners, the mayor of the City of Grand Rapids shall have power and authority to fill such vacancy by appointment for the unexpired term of the member or members whose office or offices has or have become vacant.

**BOARD TO HAVE CUSTODY OF PARKS AND CEMETERIES—APPOINTMENT
OF SUPERINTENDENTS AND EMPLOYEES AND THEIR COMPENSA-
TION—SETTING OF TREES AND SHRUBS—PROPERTY
OWNERS ADJACENT TO CEMETERIES AND PARKS
TO SET TREES AS DIRECTED.**

(Sec. 371.) Par. 5. The Board of Park and Cemetery Commissioners of the City of Grand Rapids shall have the exclusive care, custody and management of all parks and cemetery properties, with authority to employ superintendents, sextons, and laborers, as it may deem proper, and may regulate their compensation and services. The said superintendents of parks and cemeteries shall be practical landscape gardeners, and under the direction of said board, have active charge, control and direction over the parks and cemeteries of the City of Grand Rapids, and perform such other duties as may be prescribed by the board. The said board shall have power and authority to regulate the setting of trees and shrubs, and to determine the kind of trees and shrubs to be set, along streets and highways adjacent to the city cemeteries and parks, and the manner in which they shall be trimmed. The Common Council may by ordinance provide a penalty for the refusal of the owner of any property so fronting on the parks or cemeteries to comply with such regulations.

**MAPS OF CEMETERIES—REGULATE SALE OF LOTS AND INTERMENTS
THEREIN.**

(Sec. 372.) Par. 6. Said board shall cause suitable surveys and maps to be made and perfected of all the grounds, roadways, walks, lots and reservations belonging to or included in such cemeteries. It shall regulate the sales and prices of lots and interments therein, and shall make such improvements and regulations for the use and protection of such cemeteries, and may adopt such rules and regulations in relation to the care of lots therein as it may deem proper, and no interment in any lot, or parts of lots, shall be permitted while there is any unpaid account due for work thereon, provided such account was incurred on the order of any person competent to give the same.

BEQUESTS FOR CARE AND MAINTENANCE OF BURIAL LOTS, ETC.

(Sec. 373.) Par. 7. Said board is hereby authorized to accept from any person or persons by the terms of any deed, will or otherwise, any gift, devise or bequest in trust for the use and purpose of keeping in good

order and repair the family burial lot, monuments, vaults, tombs, graves and lot improvements, as well as for the planting of flowers, on any such lots or graves of such grantors or devisors, in any of the cemeteries under the charge and control of such board; and also to accept from any person or persons in the manner aforesaid, any gift, devise or bequest in trust for the use and purpose of keeping in good order and repair all the burial lots, monuments, vaults, tombs, graves and lot improvements, or any particular part or portion thereof, as well as for the planting of flowers on any such lots or graves, or any particular part or portion thereof in any such cemeteries; but such authority shall not extend to any other uses or purposes whatsoever: Provided, That such gifts in trust for such purposes shall pass to and be held by the "Board of Sinking Fund Commissioners" of the city to be invested in safe security or securities, the income therefrom to be devoted to the object or objects for which the gifts were made, the said fund to be kept by the said Board of Sinking Fund Commissioners separate and apart from all other funds under its control, and the income therefrom be paid over to the Board of Park and Cemetery Commissioners: Provided, That if the value of such trust property shall be the sum of five hundred dollars, or more, such trust shall not be accepted or the discharge of the same be entered upon, until application has been made to the Superior Court of Grand Rapids in chancery for an order confirming such trust, if such trust property shall be situated within the corporate limits of the city and such order obtained; or, if such trust property shall be situated within the County of Kent, but not within such corporate limits, such application shall be made to and such order, if granted, shall be granted by the Circuit Court for the County of Kent in chancery. Thereupon such trust shall be executed by said Board of Sinking Fund Commissioners, or a majority thereof, under the direction of the court granting such order. All the court expenses incident to obtaining such order shall be paid out of such trust fund.

CEMETERY FUNDS AND USE OF—10 PER CENT. OF GROSS RECEIPTS TO CONSTITUTE REPAIR FUND—INVESTMENT OF FUNDS.

(Sec. 374.) Par. 8. Said Board of Park and Cemetery Commissioners shall cause a fund to be provided for each of the cemeteries under its charge, the same to be kept separately by the Board of Sinking Fund Commissioners from the receipts derived from the cemetery to which such fund shall be credited, otherwise than those arising from taxation as herein provided, by appropriating annually not less than ten per cent. of the gross receipts from such cemetery as aforesaid, which shall constitute a repair fund for such cemetery, but such fund shall not exceed in any instance the sum of fifty thousand dollars. Said Board of Sinking Fund Commissioners shall invest said moneys in valid security or securities worth not less than par value, and the interest thereof shall be paid over to the Board of Park and Cemetery Commissioners, to be applied solely to the repairing of roadways, water appliances, walks, hillsides, drains, monuments, abandoned lots and public grounds connected with such cemeteries and buildings within such cemetery bounds. Such repair fund shall never, under any pretext, be diverted from the above declared purpose, and shall be used as herein directed, except as otherwise provided, but no greater sum shall be used annually than the interest on such invested moneys, except as herein provided.

IN CASE GROSS RECEIPTS OF REPAIR FUND OF ANY ONE CEMETERY EXCEEDS \$50,000—USE OF INTEREST ON SAID FUNDS.

(Sec. 375.) Par. 9. Whenever the gross receipts of the repair fund of any one cemetery shall exceed the sum of fifty thousand dollars, said

Board of Sinking Fund Commissioners shall take such excess and put it into the fund of one of the other cemeteries, or divide it between the funds of the other cemeteries in such proportion as it may deem best, but no fund shall exceed the above limit. The Board of Park and Cemetery Commissioners may, in its discretion, direct the saving of the annual interest on any such fund from year to year, if in its judgment such accumulated interest can be more beneficially laid out in repairs than the annual interest could be so laid out.

MONEY RECEIVED TO BE TURNED OVER TO TREASURER—ALLOWANCE OF ACCOUNTS AGAINST BOARD.

(Sec. 376.) Par. 10. Said Board of Park and Cemetery Commissioners, less ten per cent. of the gross receipts paid over to said Board of Sinking Fund Commissioners, as aforesaid, shall pay to the city treasurer all moneys received from the sale of cemetery lots and other sources of income from cemeteries, including all penalties collected for violations of any ordinance or regulation adopted by the Common Council relating to cemeteries, and the city treasurer shall place the same in the proper fund. All expenses incurred by said board shall be passed upon by it and certified to by a majority thereof and filed with the city comptroller, whether the same be for expenses connected with the parks or with the cemeteries of the city, and shall take the same course as other claims against the city, in accordance with the provisions of this act.

DEEDS OF CEMETERY LOTS.

(Sec. 377.) Par. 11. All deeds and conveyances of cemetery lots shall be executed by the mayor and city clerk and countersigned by the comptroller and recorded in the office of the city clerk: Provided, That no deed or conveyance shall be delivered to any person until the receipt for the purchase price thereof, signed by the superintendent of the cemetery wherein such lot is situated and countersigned by at least one member of said board, is shown to said officers executing or conveying the same.

CREMATORY.

(Sec. 378.) Par. 12. The Board of Park and Cemetery Commissioners, with the approval of the Common Council of the City of Grand Rapids, may cause to be erected and operated a crematory, and the contract for constructing such crematory shall be approved by the Common Council. Said board may fix the fees to be charged for the use of said crematory.

REPORTS TO COMMON COUNCIL.

(Sec. 379.) Par. 13. Such board shall, on the first Monday of April after the passage of this act, and on the first Monday of every third month thereafter, render to the Common Council an itemized report of its receipts and disbursements, and also of all matters committed to its charge, including the status of each of the funds hereinbefore provided for, which report shall show separately the taking of receipts and all disbursements for parks and cemeteries. And the Board of Sinking Fund Commissioners shall make a full report to the Common Council April first in each year of such funds in its hands, and whenever required by the Common Council.

**COMMON COUNCIL TO ADOPT ORDINANCES, ETC., GOVERNING CONDUCT
IN PARKS AND CEMETERIES.**

(Sec. 380.) Par. 14. The Common Council may adopt ordinances and regulations governing conduct in the parks and cemeteries of the city, and may provide for the imposition of fines or imprisonment, or both, for any violation thereof.

**CEMETERY PROPERTIES TO BE EXEMPTED FROM GENERAL TAXATION
—PLATS FOR BURIAL OF POOR.**

(Sec. 381.) Par. 15. The cemetery properties of the City of Grand Rapids and all lots or plats therein which have been, or shall hereafter be, conveyed by said city as places of burial of the dead, shall forever be exempted from general taxation, and from special assessments for local improvements, and shall not be liable to be sold on execution or be applied to the payment of debts by any assignment under any insolvent law, or by any compulsory process of law. Said Board of Park and Cemetery Commissioners shall assign and set apart suitable plats of ground for the burial of the poor and shall creditably care for and beautify the same and cause interments of the poor to be made therein. The cost of the care of such plats and the interments made therein shall be paid for out of the poor fund of the city. It shall provide a plat of ground and care for the same wherein single interment permits shall be sold at a purchase price not to exceed ten dollars.

MEETINGS OF BOARD, ETC.

(Sec. 382.) Par. 16. Said board shall hold regular meetings on the first Tuesday of each month, and may, by rule, provide for special meetings and service of notice thereof. A majority of the members of said board shall constitute a quorum, and no action of said board shall be binding unless authorized by a majority of the members present at a regular or duly called special meeting thereof. Said board shall have authority to adopt rules for the transaction of its business and for the control and management of said parks and cemeteries.

**USE OF CEMETERY FUNDS—LICENSES FOR VENDING GOODS IN
PARKS, ETC.**

(Sec. 383.) Par. 17. The said board shall have full authority within the limitations provided herein and the objects for which money in its funds can be properly used, to use cemetery moneys in the management of cemeteries within the City of Grand Rapids. Said board shall have authority to lay out, regulate and improve the city parks, and to grant or refuse licenses for the vending of goods therein or upon the streets or sidewalks within two hundred feet of any park entrance in front thereof and to ask and receive a reasonable fee therefor; and the Common Council of the city may by ordinance provide for the enforcement of the rules of said board in relation thereto. Said board shall have authority to adopt rules and regulations for the use of cemetery lots in any of the cemeteries of the city, and for the care thereof.

**BUILDING LINE DETERMINING DISTANCE AT WHICH STRUCTURES ON
PRIVATE PREMISES MAY BE ERECTED—WHERE PREMISES
FRONT A PARK OR PARKWAY, ETC.**

(Sec. 384.) Par. 18. Said board may establish a building line, or lines, determining the distance at which all structures to be erected upon any private premises fronting any park or parkway under the jurisdiction

of said board shall be erected upon such premises, and may, in the name of the city, prevent the erection, and require the removal of all structures outside of said lines, and no permit shall be issued authorizing the erection of any structure outside the building line so established: Provided, That these requirements shall not be applicable to any buildings within the line or lines that may be determined by said board hereunder, at the time of the adoption of rules relative thereto by said board. Said board shall have such additional power relating to parks as shall be specified by ordinance adopted by the Common Council of said city.

BEQUESTS TO PARKS, PARKWAYS, ETC.

(Sec. 385.) Par. 19. Real or personal property may be granted, bequeathed, devised or conveyed to the City of Grand Rapids for the purpose of improvement or ornamentation of any park, boulevard, pleasure-way or park-way, or for the establishment or maintenance therein of museums, zoological or other gardens, collection of natural history, observatories, libraries, monuments or works of art, upon such trusts or conditions as may be approved by said board, and all such property or the rents, issues and profits thereof shall be subject to the management and control of said board: Provided, That if any bequest shall be made of money constituting a fund to be used for certain specific purposes, requiring investment in securities for the purpose of obtaining the income thereof in order to carry out the trust, then such fund shall be turned over to the Board of Sinking Fund Commissioners of the City of Grand Rapids for investment, and the income thereof shall be paid to the Board of Park and Cemetery Commissioners for its use in carrying out the trust created by the donor.

PURCHASE OF LANDS FOR PARKS, ETC.—HOW BONDS MAY BE ISSUED.

(Sec. 386.) Par. 20. It shall be within the power of said Board of Park and Cemetery Commissioners, when authorized by the Common Council, of said city, to acquire lands for parks and parkways within and without the City of Grand Rapids, and for the Common Council of said city to provide for the payment thereof by the issuing of bonds therefor, with a rate of interest not to exceed four per cent. per annum, interest payable semi-annually: Provided, That no amount of bonds for such purpose shall be issued by the Common Council of said city for any purchase or purchases of lands for parks, parkways or boulevards in excess of ten thousand dollars, without the same being submitted to the electors of the City of Grand Rapids and the approval by a majority of them voting thereon, having first been obtained.

ESTIMATES FOR ENSUING YEAR—APPROPRIATION FOR CARE OF PARKS AND CEMETERIES—ALLOWANCE OF BILLS.

(Sec. 387.) Par. 21. The said Board of Park and Cemetery Commissioners shall on the first day of April in each year, and at other times when required by the Common Council, report to the Common Council in detail an estimate of the amount of salaries and other necessary expenses of said board for the ensuing year, both for expenses connected with the city cemeteries and for the care, maintenance and improvement of the city parks. Said statement must show the number and class of employees, the salaries to be paid and the number to be employed, as near as the same can be estimated. The Common Council, upon the first Monday of May in each year, or as soon thereafter as practicable, shall make an appropriation for the care, maintenance and improvement of the city parks of said city, which sum, when raised, shall go into a fund to be held by the city treasurer of said city, and be known as the park fund of said city; and the

Common Council shall, if found to be necessary, also make an appropriation to said board for the care, management and control of the cemeteries of said city, which moneys so appropriated shall be carried into the cemetery fund, and placed in the hands and under the control of the city treasurer of said city, the moneys to be paid from said cemetery fund, whether coming from city appropriations or other sources, upon the presentation by said board, of bills to the comptroller of said city, which bills shall be reported to the Common Council by said comptroller and allowed in the usual way, the allowance specifying from what fund the same are to be paid.

TITLE XII.

BOARD OF SINKING FUND COMMISSIONERS.

MEMBERS OF BOARD.

(Sec. 392.) Par. 1. The mayor, comptroller, clerk and treasurer of the city of Grand Rapids and the chairman of the committee on ways and means of the Common Council of said city, and their successors in office by virtue of their offices, and two electors who shall be citizens and free holders of the city of Grand Rapids to be elected by said several officials for two years each, one to be elected each year on May first, or as soon thereafter as practicable, and one of whom after the taking effect of this act shall first be elected for one year, shall constitute and be a board of Sinking Fund Commissioners: Provided, That the members of said Board of Sinking Fund Commissioners, in office at the time of the taking effect of this act, shall continue to be members thereof until the expiration of their respective terms of office.

BOARD TO PURCHASE OR PAY OUTSTANDING BONDED DEBT—INVESTMENT OF FUNDS, ETC.

(Sec. 393.) Par. 2. The Board of Sinking Fund Commissioners shall from time to time upon the best terms they can make, purchase or pay the outstanding bonded debt of said city, or such part thereof as they may be able to purchase or pay until the full amount thereof be fully purchased or paid. Whenever they cannot arrange for the purchasing or paying of said debt, or any part thereof, they shall temporarily and until they can so arrange, invest the moneys belonging to the sinking fund in such interest bearing securities as they may deem advisable; and all matured bonds and evidences of debt so purchased shall be delivered to the city treasurer and shall become and be the property of the city of Grand Rapids, held and controlled by said Board of Sinking Fund Commissioners and the interest thereon as it thereafter becomes due shall be credited to and belong to the sinking fund. The city treasurer shall endorse upon the back of all bonds so purchased by the Sinking Fund Commissioners the following, viz: "Registered bonds not transferable without the written consent of the mayor, comptroller and city clerk endorsed thereon." And such bonds shall only be transferred and sold under the direction of the Board of Sinking Fund Commissioners. In making temporary investment of the moneys of the sinking fund the said board shall give preference to bonds of the city of Grand Rapids, but may subsequently sell the same and apply the proceeds to the purchase of other securities, or to the payment of other bonds of the city whenever such action is deemed advisable.

BOARD TO HAVE CONTROL OF SINKING FUND ,ETC.

(Sec. 394.) Par. 3. Said Board of Sinking Fund Commissioners shall have exclusive control of the moneys of the sinking fund and

shall faithfully apply the same whenever possible, or it may appear to the city's interest, to the payment of the principal and interest of the bonded indebtedness of the city of Grand Rapids, and to no other purpose whatever, except as herein otherwise provided. The board may temporarily invest any portion of the sinking fund in so-called street improvement bonds of the city of Grand Rapids, but no portion of the sinking fund shall be applied to the ultimate payment of any of such bonds.

MEETINGS OF BOARD—RECORD—CITY CLERK TO BE CLERK OF BOARD AND KEEP SAID RECORD.

(Sec. 395.) Par. 4. Said Board of Sinking Fund Commissioners shall meet from time to time for the transaction of business and may adopt rules of proceeding for their meetings. A majority of the whole board shall be a quorum for the transaction of business, but they shall not purchase in or pay the outstanding debt of said city or invest any of the moneys belonging to the sinking fund as above provided, except under a resolution for such purpose passed and approved by a two-thirds vote of the whole board by yeas and nays to be entered of record at a regular meeting or a special meeting called for such purpose. The mayor of said city, or in case of his absence, some member to be designated by those present, shall preside at the meeting of said board. The city clerk shall be the clerk of the Board of Sinking Fund Commissioners and it shall be his duty to keep a true record of all meetings of said board, which records shall be kept on file in and be a part of the records of the office of the city clerk.

CITY TREASURER TO HAVE CUSTODY OF ALL MONEYS, ETC.—HOW FUNDS MAY BE PAID OUT.

(Sec. 396.) Par. 5. The city treasurer shall have custody of all moneys, securities and evidences of debt belonging to or appertaining to the sinking fund, and he shall pay out the moneys of said fund only by order of the Board of Sinking Fund Commissioners on a two-thirds vote of the members thereof directed as aforesaid, and upon the warrant of the city comptroller. The official bond of the city treasurer shall cover any and all funds in his hands belonging to the sinking fund.

REPORTS TO COMMON COUNCIL—ESTIMATE FOR ENSUING YEAR.

(Sec. 397.) Par. 6. Said commissioners shall from time to time, but at least annually, and whenever requested by the Common Council of said city, make report of their meetings, which report shall be made to the Common Council and be referred to and filed with the city comptroller and be recorded by him in some proper book to be provided by him for such purpose. They shall recommend to the Common Council on or before April 1, the sum of money that in their judgment should be placed in the next annual budget and raised by direct taxation for the benefit of the sinking fund.

TAX FOR BENEFIT SINKING FUND—PREMIUMS FROM SALE OF BONDS TO BE CREDITED TO SINKING FUND—INTEREST TO BE PLACED IN SINKING FUND.

(Sec. 398.) Par. 7. The Common Council shall in each year levy and collect a tax for the benefit of the sinking fund of not less than one-fifth of a mill on a dollar or more than four-fifths of a mill on a dollar in any one year upon the real estate and personal property in

said city, not exempt from taxation by the general laws of the State, and upon all of the personal property of residents of the city not exempt from taxation by such general laws. Provided, That at least one-fifth of a mill shall be placed in the sinking fund annually, to be applied exclusively to the payment of the principal of said bonds, other than water and school bonds. Whenever any bonds of the city of Grand Rapids shall be sold for more than par value all of the premium or amount received at such sale more than the par or face value of the bonds sold, not including interest accrued upon such bonds that may be paid by the purchaser, shall be credited and belong to the sinking fund. All of the interest paid to the city by the city depository or depositories as provided for by this act shall belong to and be placed in the sinking fund of said city.

RELATIVE TO PAYMENT OF WATER BONDS AND INTEREST THEREON.

(Sec. 399.) Par. 8. From the gross income of the Board of Public Works received from the sale of water by said board there shall be paid over to the Board of Sinking Fund Commissioners fifty per cent. thereof, and the said Board of Sinking Fund Commissioners from such moneys received from the Board of Public Works shall pay the current interest, as it matures, of the water bonds issued by said city, and the remainder of said moneys received from the sale of water shall be kept by said Board of Sinking Fund Commissioners separate from other funds for the purpose of creating a sinking fund to be applied to the payment of the principal of the water bonds of said city.

RELATIVE TO PAYMENT OF SCHOOL BONDS—CARE AND INVESTMENT OF PARK AND CEMETERY MONEYS.

(Sec. 400.) Par. 9. There shall also be placed in the budget of the Board of Education of said city such amount as may be recommended by the Board of Education and approved by the Common Council, or as may be determined to be necessary by the Common Council for each year, to be paid over to said sinking fund commissioners to create a sinking fund to be applied to the payment of the principal of the bonded indebtedness of the Board of Education as the same matures. The said Board of Sinking Fund Commissioners shall receive and keep as a separate fund any moneys that may be paid to it from the proceeds of sales of cemetery lots by the Board of Park and Cemetery Commissioners, and invest the same to the best advantage possible, carrying out the trust imposed in it by this act in connection with the said Board of Park and Cemetery Commissioners.

EXPENSES OF BOARD OF SINKING FUND COMMISSIONERS.

(Sec. 401.) Par. 10. The necessary expenses of the Board of Sinking Fund Commissioners incurred in performing any of the duties imposed upon it by this act shall be a proper charge against the city to be paid by the Common Council from the general fund.

TRANSFER OF FUNDS NOW CONTROLLED BY OTHER BOARDS TO BOARD OF SINKING FUND COMMISSIONERS, ETC.

(Sec. 402.) Par. 11. Any and all moneys properly belonging to or due the sinking fund of said city on the taking effect of this act in the hands or under the control of the present Board of Sinking

Fund Commissioners shall continue under the management and control of said board for the objects and purposes for which said moneys have been appropriated, and any moneys under the control of any other board which by the provisions of this act are given to the Board of Sinking Fund Commissioners shall be turned over by the proper city officials to this board for the objects and purposes for which said moneys were raised.

BOARD TO ADOPT RULES AND ENFORCE COLLECTION OF BONDS AND SECURITIES.

(Sec. 403.) Par. 12. Said Board of Sinking Fund Commissioners are authorized to adopt rules not in conflict herewith for the government of their action, and shall be authorized for the purpose of enforcing the collection of any bonds or securities taken by them to bring suit in the name of the city of Grand Rapids in any court of competent jurisdiction.

TITLE XIII.

BOARD OF ESTIMATES.

MEMBERS OF BOARD.

(Sec. 408.) Par. 1. There shall be a Board of Estimates for the City of Grand Rapids, composed of the mayor, city clerk, city comptroller, city treasurer, the members of the committee on ways and means of the Common Council, and their successors in office, and also five electors, who shall be citizens and freeholders of the City of Grand Rapids, to be appointed annually by the mayor, and to hold their offices until one year from the first Monday of May following their appointment, and until their successors are appointed and qualified.

VACANCIES—NO COMPENSATION FOR MEMBERS—PRESIDENT AND SECRETARY OF BOARD—RECORDS.

(Sec. 409.) Par. 2. Vacancies in the membership of appointed members of such Board of Estimates shall be filled by the mayor. The members of said Board of Estimates shall serve without compensation. The mayor shall be *ex-officio* president of said board. The city clerk shall be *ex-officio* secretary of said board and keep a record of its proceedings, and perform such other duties as may be prescribed by the board.

MEETINGS OF BOARD—RULES AND REGULATIONS.

(Sec. 410.) Par. 3. There shall be a meeting of the Board of Estimates annually at ten o'clock in the forenoon on the first Tuesday of April, the second Monday of May, and the fourth Monday of August, and at such other times as the board or the Common Council may direct, such meetings to be held at the office of the mayor in the city hall. The Board of Estimates is authorized to adopt such rules for the government of its deliberations as it may deem necessary.

ESTIMATES TO BE SUBMITTED TO BOARD BY SEVERAL MUNICIPAL BOARDS, HEADS OF DEPARTMENTS AND CLERKS OF COURTS OF THE CITY.

(Sec. 411.) Par. 4. On or before the first Tuesday in April of each year and before any moneys shall be raised or taxes levied and collected for the purposes of the several funds authorized by the provisions of this act and acts amendatory thereof, estimates of the amount of moneys required for such funds or purposes, to be raised by tax or otherwise, shall be submitted to the Board of Estimates by the several municipal boards, the heads of the several departments of the city government and the clerks of the several courts of said city: Provided, That on or before the fourth Monday of August in each year the Board of Education shall submit to said Board of Estimates its estimate of the moneys necessary to be raised for said board for the coming year. All such estimates shall be in detail and shall designate the exact purpose for which said sums are required and shall also give an approximate estimate of the moneys which shall be re-

ceived by such departments or boards that may be deducted from the amount otherwise required to be raised. The Board of Estimates shall have the right to call upon the Common Council or upon any officer or board of said city for further reports or any information which it may require for the purpose of reaching a correct estimate of the amount of money to be raised, or in reference to any matter pending before said board, and neglect or refusal to furnish the same after a demand thereof shall be sufficient cause for the removal from office, under Title II. Par. 10.

BOARD TO CAREFULLY CONSIDER ESTIMATES AND APPROVE OR DISAPPROVE OF SAME, ETC.

(Sec. 412.) Par. 5. It shall be the duty of said Board of Estimates to carefully consider each and every estimate presented to it under the provisions of this act of moneys to be raised for the several purposes aforesaid, and it shall either approve or disapprove of the same. The said board shall have power, and it shall be its duty, after careful consideration of the various estimates referred to it, if it shall deem it advisable so to do, to disallow any item, items or parts of the same and decline to place the same in its estimate made of the respective funds to be raised by said city; but it shall not have power to create additional funds or to raise any of the several funds to an amount in excess of that recommended by the several heads of the city departments or boards of said city in the various estimates presented to it as aforesaid.

BOARD TO PRESENT ESTIMATES AND ITS RECOMMENDATIONS THEREON TO COMMON COUNCIL—COMMON COUNCIL MAY AMEND, ETC.

(Sec. 413.) Par. 6. It shall be the duty of said board, after the consideration of such estimates, to present the same to the Common Council of said city, together with its recommendation thereon, on or before the first day of May in each year, for its revision and ratification: Provided, That the estimates of the Board of Education presented to said Board of Estimates shall be presented to the Common Council on or before the second Monday of September in each year: And provided further, that the Common Council may make such change, either by adding to or deducting therefrom any item or items made by said Board of Estimates as it may, after careful examination, determine to be necessary in the interest of the City of Grand Rapids.

ESTIMATES AS APPROVED BY COMMON COUNCIL TO BE USED BY SEVERAL BOARDS AND OFFICERS OF THE CITY FOR PURPOSES DESIGNATED.

(Sec. 414.) Par. 7. The various estimates as finally approved by the Common Council and carried into its budget for the current year, either for the general objects and purposes of the city government or for school purposes, and the taxes raised thereon, shall be used by the several municipal boards and officers of the city for the several purposes designated in the budget, and in no other way, unless specially authorized so to do by subsequent action of the Common Council.

TITLE XIV.

BOARD OF EDUCATION.

CITY A SCHOOL DISTRICT.

(Sec. 419.) Par. 1. The City of Grand Rapids, as it may from time to time exist, shall constitute and be one school district. The Board of Education of said city shall be its school board. In all respects where not modified by this act, such district and such board shall be subject to and governed by the general school laws of this State from time to time in force.

THE BOARD—HOW CONSTITUTED AND CHOSEN.

(Sec. 420.) Par. 2. The Board of Education shall consist of nine members. The nine members constituting the first board hereunder shall be elected at the time of the charter election of April, 1906. The City of Grand Rapids shall be divided into three school election districts, each of such districts shall elect from the resident school electors thereof these members of said board. The first district shall consist of all that part of the City of Grand Rapids west of the center of Grand River; the second district shall consist of all that part of the said city east of the center of said Grand River and lying north of the center of Fulton street, extended from the center of Grand River easterly to the city limits, and the third district shall consist of all that part of the City of Grand Rapids lying east of Grand River and south of the center line of Fulton street extended from the center of said river easterly to the city limits. The term of office of said members of the Board of Education shall commence on the first Monday in May in each year and continue until a successor is elected and qualified. The members of the first board in each district at its first meeting shall by lot determine which one of its members shall serve one year, which one serve two years and which one serve three years, and their terms shall be accordingly. At the time of each annual charter election thereafter members of the board shall be chosen in each school election district to fill the positions of those whose terms expire. Three years shall be the term of each member chosen after the first election. Members of said board shall receive no compensation for their services.

NOMINATION AND ELECTION—BALLOTS—QUALIFICATIONS OF ELECTORS.

(Sec. 421.) Par. 3. Any qualified school elector of the city shall be eligible to be chosen as a board member, and if duly registered hereunder to vote for a board member at such election. Every person shall be entitled to vote at such election who is a qualified elector of the City of Grand Rapids, and all other persons who are 21 years of age and who shall have resided in the ward or precinct in which he or she offers to vote at least twenty days next preceding such election and who is either the parent or legal guardian of any child or children included in the school census of said city next preceding such election, or who has or had property liable to assessment in said city within a year preceding such election. Nominations shall be by petition signed by not less than one hundred duly qualified school electors, residents of the school election district in which the candi-

date proposes to stand, which position shall be filed with the city clerk at least ten days before election. No petition which does not have such number of signatures, residents as aforesaid shall constitute a valid nomination. At the same time and in the same general manner provided with reference to the charter election the election commissioners shall prepare and have printed an official ballot, on which shall be placed the names of all who have been duly nominated for members of said board. In printing, the names shall first be arranged alphabetically and the first one hundred printed accordingly; then the name at the top shall be put at the bottom for printing the second one hundred, and a corresponding change shall be made with each succeeding one hundred printed. The election shall be by separate ballot in a separate box, but at the same time and place as the charter election; and shall be conducted by the same inspectors, canvassed, reported and considered and treated as a part of such charter election in all particulars not otherwise specified. Voting or attempting to vote for board members at such election by one not legally entitled to vote therefor shall constitute the same offense, and shall be prosecuted and punished in the same manner as casting or attempting to cast any illegal vote at a charter election.

REGISTRATION.

(Sec. 422.) Par. 4. No elector not registered as provided herein shall be entitled or permitted to vote at such election for board members (except that votes may be sworn in as is permitted by law at a general election.) The same registration required or provided for a charter election shall be sufficient registration for this school election. In addition thereto the registration boards shall be provided with separate books for registration of school electors who are not general electors. Before registering any name therein the registration board shall be reasonably satisfied that the applicant for registration is a duly qualified school elector. Such registration shall in all respects not herein specified, be conducted in the same manner as, and as a part of, the registration required or provided for with reference to charter elections.

PRESENT BOARD TO CONTINUE.

(Sec. 423.) Par. 5. This act shall not take effect until the commencement of the term of office of the first board chosen hereunder, excepting as to the provisions regarding the nomination, registration and election pertaining to the choice of such first board hereunder, which provisions shall become operative so as to apply to and govern such registration, nomination and election. In the meantime and until the first Monday of May, 1906, the laws existing at the time of the passage of this act shall continue in full force, except that the term of office of all school trustees in said city, whether now holding office or hereafter to be elected, shall terminate on the said first Monday of May, 1906, their election for a longer period notwithstanding.

ORGANIZATION OF BOARD.

(Sec. 424.) Par. 6. The city clerk within the time specified for serving notices upon officials elected at a municipal election shall serve notice upon each member of said board elected at said election. On the first Monday of May in each year the board shall organize for the ensuing year by electing its officers herein provided.

VACANCIES.

(Sec. 425.) Par. 7. If any person duly elected fails to take the oath of office within the time limited, or if any member during his term shall die, or become mentally incompetent, or resign or lose residence in the district from which he was elected, a vacancy shall thereby exist, which vacancy shall be filled by election from such district by a majority of the remaining members of the board, for the remainder of the current year, and at the next election the vacancy shall be filled by nomination for the remainder of the term of the former member. If any member of said board shall be found guilty in his office of wilful acts of misfeasance or nonfeasance, specific charges may be filed with the secretary of said board, and the said board by a vote of two-thirds of the members thereof may remove such official from his position as trustee and declare the same vacant, which vacancy shall be filled for the remainder of his term in the manner above provided.

POWERS—A BODY CORPORATE.

(Sec. 426.) Par. 8. The said Board of Education shall be a body corporate under the name and style "The Board of Education of the City of Grand Rapids," and under that name may sue and be sued, and may take, hold, sell and convey real and personal property including property received from gift, devise or bequest, all as the interest of said schools and the property and welfare of said school district may require. Said Board of Education chosen pursuant to this act shall be and is the same body corporate now existing under the same name, and shall be vested with the title to all property, real and personal now or hereafter vested in the Board of Education; and the indebtedness and obligations of the present board shall become and be the indebtedness of the board chosen under this act. It shall have power to purchase all property, erect and maintain all buildings and purchase all personal property, to employ and pay all persons and do all other things in its judgment necessary for the proper establishment, maintenance, management and carrying on of the public schools of the city or other property of the district, and to adopt by-laws, rules and regulations for its own government and for the control and management of all schools and property. It shall not have power to raise money, borrow money or incur indebtedness, except in the manner herein specified.

OFFICERS AND THEIR DUTIES.

(Sec. 427.) Par. 9. The officers of the board shall be a president, vice-president, secretary and treasurer. The city treasurer shall be *ex-officio* treasurer of the board. The president and vice-president shall be elected each year for terms of one year, from among the members of the board, by a majority vote thereof. The secretary shall not be a member of the board. The president, vice-president and secretary, respectively, shall perform such duties as may be prescribed in the by-laws, rules and regulations of the board. They shall also be required to give bond for the faithful performance of their duties in such manner and form as may be prescribed by such rules and by-laws. The treasurer shall have the keeping of all moneys belonging to the school district, and shall pay out the funds of the board only upon orders in the manner in this act specified. The city attorney shall be the legal adviser of said board and represent it in all litigation.

MEETINGS.

(Sec. 428.) Par. 10. Regular meetings of the board shall be held at least once in each month at such time and place as may be fixed by the by-laws of the board. Special meetings may be called and held in such manner and for such purposes as may be specified in such by-laws.

THE FISCAL YEAR.

(Sec. 429.) Par. 11. The fiscal and accounting year shall commence with the first day of July in each year.

REVENUES—SCHOOL TAXES—TAX LIMIT.

(Sec. 430.) Par. 12. The board shall annually, on the third Monday in August of each year, make an estimate of the amount of taxes deemed necessary for the ensuing year for all purposes of expenditures within the power of said board, which estimates shall specify the amounts required for the different objects, and shall transmit such estimate to the Common Council and Board of Estimates on or before the fourth Monday in August for ratification, amendment or rejection. If for any reason the Common Council shall fail to pass on said estimate and finally adopt the same after such amendment, increase or decrease, as it determines before the first Monday in October in each year, then the estimate made by such board shall stand as approved and be considered as approved and ratified by said council and reported accordingly, and the amount therein named levied and collected accordingly. On or before the first Monday in October in each year, the secretary of the board shall make to the clerk of Kent County a written report of the amount of taxes so deemed necessary and approved or standing approved by said council; and the said county clerk shall thereupon apportion the said amount among the several wards of the city, and shall notify the proper assessing officers of said city of said apportionment, and the said amount so apportioned shall be levied, assessed, collected or returned the same as other city taxes. No greater sum than five mills on the dollar shall be levied for school purposes in any one year. That for purchasing school lots, for erecting school houses and for the payment of school bonds issued for such purposes no greater sum than five mills on a dollar of all taxable real and personal property of the said city shall be levied in any one year.

BORROWING MONEY.

(Sec. 431.) Par. 13. The board may from time to time, on such terms as it may deem proper, borrow for temporary school purposes not to exceed \$30,000, total outstanding unpaid at any one time, and may give the note or bonds of the board therefor, which shall be paid from the first school moneys collected thereafter. For the purpose of purchasing sites, or erecting buildings, or both, the board may borrow such sums of money as it may deem necessary, and may issue and sell its bonds therefor, upon such rate of interest and for such time and in such amounts as it may think proper, and in such form and with bonds and coupons signed and countersigned in such manner as it may by resolution direct; but the action of the board authorizing such loan shall first be submitted to the Common Council for approval, and no such issue of bonds shall be valid unless the proposal to issue the same shall have been approved by a majority vote of the members elect of the Common Council. No bonds shall be sold for less than par or bear more than five per cent. interest or run for more than twenty years.

CLAIMS AND DEMANDS.

(Sec. 432.) Par. 14. All demands and claims against the board shall be allowed by the board under such rules and regulations as it may establish and shall thereupon be certified to the city comptroller for payment. Payment of the same shall be made by the city treasurer out of the funds of the board in the same manner, as near as may be, that claims against the city are paid out of the general city treasury. The city comptroller is hereby made ex-officio auditor of the Board of Education, with such powers and duties in that respect as may be conferred upon him by the city charter.

SUPERINTENDENT—BUSINESS MANAGER—THEIR POWERS.

(Sec. 433.) Par. 15. The board shall have power to elect for such term, not exceeding three years, as it may determine, a superintendent of schools and a business manager, and to fix the salaries thereof and to remove either of them notwithstanding that the term of office has not expired upon the concurring vote of two-thirds of all of the members of said board. It may delegate to such superintendent and business manager the executive management and control of the educational department and the management and control of purchases, building contracts, and all other business matters, to the superintendent and manager, respectively, in so far and to such extent as it may from time to time determine.

PUBLICATION.

(Sec. 434.) Par. 16. All proceedings and official action of the board shall be printed and published immediately after such meeting in such manner as the board shall decide. It shall cause to be made at the end of each fiscal year and to be published in connection with other city reports, a complete report of its receipts, expenditures and of general school statistics.

MISCELLANEOUS.

(Sec. 435.) Par. 17. The board shall provide for taking the school census required by law. It shall receive the fines devoted by law to the maintenance of district or school libraries, and shall devote the same to that purpose by paying the same to the library commission of the City of Grand Rapids.

VETO.

(Sec. 436.) Par. 18. Within twenty-four hours after its passage, the president or acting president of the board may veto any action thereof by filing in the office of the secretary of the board his reasons therefor, in writing, and the same thereupon shall not go into effect or have any legal operation until after it may be repassed at a subsequent meeting of the board by a vote of two-thirds of all the members thereof. No action of the board shall go into operation until the expiration of twenty-four hours after its passage unless the president or acting president shall sooner file in writing with the secretary his approval thereof.

REPEAL.

(Sec. 437.) Par. 19. All acts and parts of acts in any wise contravening the provisions of this act.....
.....
..... shall be and are from and after the time this act goes into effect according to its terms, repealed.

TITLE XV.

BOARD OF LIBRARY COMMISSIONERS.

ELECTION.

(Sec. 442.) Par. 1. At the annual charter election next succeeding the passage of this act there shall be elected in the city of Grand Rapids one library commissioner to hold office for five years and until his successor is elected and qualified. At each annual election one library commissioner shall be elected to hold office for five years and until his successor is elected and qualified. Notice of the election of such commissioners shall be given in the same manner as that of other city officials.

MEMBERS OF—CONTROL OF LIBRARIES—ART GALLERY, ETC.

(Sec. 443.) Par. 2. The five library commissioners so elected with the superintendent of schools, and their successors, shall constitute the Board of Library Commissioners of the city of Grand Rapids, the superintendent of schools having the same right to vote on any matter coming before the board as the other members thereof. Such board shall have the entire management and control of the so-called public library of said city, being the district library, and of all property and assets belonging thereto real or personal, the title to which is now vested in the Board of Education, and which is devoted to or intended for library purposes, also of all property now or hereafter belonging to the city and intended for or devoted to an art gallery or similar purposes.

CONTROL OF MUSEUM AND PROPERTY OF KENT SCIENTIFIC INSTITUTE.

(Sec. 444.) Par. 3. The said Board of Library Commissioners shall have the management, control and custody of the museum now under the control and direction of the Board of Education, including that part of the same that was transferred to the Board of Education by the Kent Scientific Institute and subject to the reservation to the said Kent Scientific Institute in the transfer by it made to the Board of Education of said city, and of the property and assets belonging thereto real or personal intended for or used in connection with the museum of said city, and of all property now or hereafter belonging to or used in connection with said museum.

ELECTION, ETC.

(Sec. 445.) Par. 4. The election of members of said board shall be upon a separate ballot and in a separate box from all other offices or questions voted upon. All persons eligible to vote for school officers shall be eligible to vote for library commissioners. The result of the vote shall be canvassed and declared in the same manner as in the case of city officers. Except as herein otherwise provided the election of library commissioners shall be governed by the same rules as the election of members of the Board of Education.

WHO ELIGIBLE TO ELECTION AS LIBRARY COMMISSIONER.

(Sec. 446.) Par. 5. Any qualified voter at school elections in the city shall be eligible to election as library commissioner. Nominations shall be made in the same manner as nominations for members of the Board of Education, excepting that city at large shall be the election district.

VACANCIES.

(Sec. 447.) Par. 6. In case of the death, resignation or removal from the city of any commissioner his position shall become vacant and the vacancy shall be filled by election by the remainder of the board, but for a term continuing only until the next charter election, at which time his successor for the unexpired term shall be nominated and elected in the manner herein provided.

ORGANIZATION OF BOARD—CITY TREASURER CUSTODIAN OF FUNDS—ALLOWANCE OF BILLS.

(Sec. 448.) Par. 7. No member of such board shall receive any compensation whatever for his services in connection therewith. Annually on the first Monday of May the board shall organize by electing one of its members president and one of its members secretary. The city treasurer of the city of Grand Rapids shall hold the funds of said library commission and all bills incurred by it shall be allowed by said board and certified by it to the city comptroller to be allowed by the Common Council and paid from the library fund.

EMPLOYMENT OF LIBRARIAN, ETC.—SALARIES.

(Sec. 449.) Par. 8. The board may employ in its management of said library, such librarian, assistants, janitors and other employees or workmen as it may determine, and fix their salaries. It may purchase such books, charts, maps, and apparatus for the use of the library as it may find necessary and may do every act and thing necessary to maintain the library building and grounds and increase the usefulness of such library. For this purpose it may establish and from time to time alter, amend or repeal such rules and regulations in any manner not inconsistent with this act. Said board may also employ a superintendent or director, assistants, janitors and such other employees for the purpose of managing and caring for the said museum, and may fix their salaries.

FINES AND PENALTIES TO GO TO LIBRARY.

(Sec. 450.) Par. 9. All fines and penalties which by law are devoted to library purposes and which now by law are paid to the Board of Education for such purposes shall instead thereof be paid to the board created by this act, unless the Board of Education shall direct such fines and penalties to be devoted to other lawful purposes.

GIFTS TO BOARD FOR LIBRARY, ART GALLERY OR MUSEUM PURPOSES.

(Sec. 451.) Par. 10. Said Board of Library Commissioners is hereby authorized to receive gifts, devises or bequests either of real or personal estate as trustees for the Board of Education, either for the library or any matters connected therewith, the art gallery, or for the museum, and the said board is hereby authorized to carry out in connection with any such gifts any trusts or trust conditions that may be attached thereto in the same manner as any other trustee. All such gifts, devises and bequests for the benefit of either said library, art

gallery, or museum, shall be subject to the same control and management by the said Board of Library Commissioners as the original library, art gallery, or museum committed to its care.

FUNDS FOR SUPPORT OF LIBRARY, ETC.

(Sec. 452.) Par. 11. There shall be placed in the budget annually for the support of the library and the running expenses thereof two-fifths of a mill on a dollar of the assessed value of the property of the city of Grand Rapids, and such further sum as may be determined by the common council in making up its budget from year to year. There shall also be placed in the budget for the purpose of creating a separate fund such amount as may be found necessary by the Common Council for the care and management of the said museum. The Common Council may provide from time to time temporarily funds for the purposes of such board in such manner and in such amount as it determines to be necessary.

REPORTS TO COMMON COUNCIL.

(Sec. 453.) Par. 12. Annually on the first day of April the board shall present to the Common Council its report containing a full financial statement of all moneys received and the details of the expenditures of the same, both for the management and control of the library, art gallery, and of the museum, and such facts regarding the library, art gallery, and museum, and recommendations concerning the same as the said board shall deem proper.

ENFORCEMENT OF RIGHTS, ETC.

(Sec. 454.) Par. 13. Whenever necessary for the enforcement of the powers, rights and privileges conferred upon said board it may in the name of the city of Grand Rapids institute in any court of competent jurisdiction an action at law or equity to enforce or protect the property placed in its charge or the powers and privileges hereby given to such board.

TITLE XVI.

MISCELLANEOUS PROVISIONS.

POWER OF MAYOR AND MEMBERS OF COUNCIL TO ADMINISTER OATHS.

(Sec. 459.) Par. 1. The mayor or chairman of any general or special committee of the Common Council shall have power to administer an oath or affirmation to a person testifying in respect to any matter pending before the Common Council or before any such committee. He shall also have power to administer the requisite oath or affirmation to a person subscribing an affidavit in respect to any such matter.

PERJURY.

(Sec. 460.) Par. 2. Any person who may be required to take any oath or affirmation under or by virtue of any provision of this act who shall under such oath or affirmation in any statement or affidavit or otherwise wilfully swear falsely as to any material fact or matter, shall be guilty of perjury and liable to the punishment thereof.

CORPORATION FUNDS—CLASSIFICATION OF—TRANSFER OF, ETC.

(Sec. 461.) Par. 3. The revenues and moneys of the corporation shall be divided into the following funds, to wit:

First. General fund, which shall be devoted to the payment of expenses of the city, for which no provision is herein otherwise made, with the right to transfer any part thereof to any other fund.

Second. Contingent fund, to defray the contingent expenses of said city, with the right to transfer the same or any part thereof to the general fund, or for such other purposes as the Common Council may determine.

Third. Sinking funds, to pay the funded debts and interest thereon of said city and the Board of Education.

Fourth. Fire department fund, to defray the expenses of purchasing lots, erecting engine houses thereon, purchasing engines and other fire apparatus, and all other expenses necessary to operate and maintain the fire department of said city.

Fifth. The Poor fund, to defray the expenses of providing for and taking care of the poor of said city.

Sixth. Highway funds, to defray the expense of cleaning and sprinkling the streets, highways, lanes, alleys, pavements and crosswalks of said city and for repairing the graveled or unimproved streets.

Seventh. Sewer fund, to defray the expense of cleaning and keeping in repair the sewers of said city.

Eighth. The Public Building fund for the purchasing of any real estate, for the erection thereon of any public buildings, and to defray the expenses of erecting, repairing and preserving such public buildings as the Common Council is authorized to erect and maintain.

Ninth. Superior Court fund to maintain the Superior Court.

Tenth. Such other funds as the Common Council may constitute for special purposes not inconsistent with nor to be taken from any of the funds above constituted or raised, unless from the general or contingent fund, and the said Common Council is prohibited from transferring any money whatever from any of the special funds above constituted or raised, except for the purposes as in this charter stated: Provided, That by a five-sixths vote of all the members of the Common Council a transfer may be made temporarily from one special fund to another or to the general fund.

UNUSED SUM OF MONEY LEFT IN FUNDS TO BE TRANSFERRED TO GENERAL FUND.

(Sec. 462.) Par. 4. Whenever there shall be found in the treasury of said city any sum of money not otherwise appropriated, or whenever any fund of said city shall contain a balance after all legal demands against it have been satisfied, the same shall be transferred to the general fund by the Common Council.

CLAIMS FOR DAMAGES.

(Sec. 463.) Par. 5. If any claim for unliquidated damages is made against said city for injuries to persons or property by reason of any defects in the sidewalks, streets, highways, cross-walks, bridges, alleys, courts, public grounds or public places in said city, or by reason of any negligence on the part of said city, or said city officials, or its employees, in any public work in which it or they are engaged, or any claim is made against said city in an action of tort, the claimant in such cases shall present the same to the Common Council within sixty days after the injury or wrong occurred, which claim shall state the place where such injury or wrong was received, the names of claimant's witnesses concerning the same, then known to claimant, a description of the injury sustained, and a succinct statement of the facts constituting such claimant's demands against said city, and any further statement that may be required by said Common Council, and if said claim arises from injury received by reason of any defect in the sidewalks, streets, highways, bridges, alleys, courts, public grounds or public places in said city, or public works in which the said city or its officials are engaged, the claimant who alleges injury thereon shall give notice to the city by a written statement filed with the city clerk within ten days of the time of said injury, specifying the location upon the street, alley, lane, highway, sidewalk, crosswalk, bridge, court, public place or public ground, or public works where the same was received, and the general character of the alleged defect claimed to have existed resulting in the injury of claimant; said preliminary notice not to take the place of the specific notice herein required to be filed within sixty days. If required by the Common Council or a committee thereof, said claimant shall produce his witnesses before said Common Council or committee and they may be sworn and examined as to the nature of the claims, the amount thereof and the particular basis upon which they are made. The Council or committee shall have power to subpoena witnesses for such hearing. Any such claim shall be void unless such claimant shall bring an action against said city for such a demand within a period of one year from and after said Common Council has had a reasonable time, not to exceed sixty days, to investigate and pass upon such claim.

CLAIMS FOR DAMAGES—BAR TO ACTION, ETC.

(Sec. 464.) Par. 6. It shall be a sufficient bar to any action or proceeding brought in any court for the recovery of any such claim against the city that such claim has never been presented to the Common Council, or notice thereof given either as to the place of injury or of the specific basis of the claim as provided for in the preceding section, within the time therein limited, or that the action or proceeding was brought before said Common Council, had such reasonable time to investigate and pass upon such claim as hereinbefore provided, or that such claimant did not produce his witnesses for examination upon claim made, as required by the preceding section, or that the action or proceeding was not brought within the period of one year after the time elapsed for the Common Council to investigate and pass upon such claim as hereinbefore provided.

EXPENSES OF APPREHENDING CRIMINALS, ETC., TO BE PAID BY KENT COUNTY.

(Sec. 465.) Par. 7. The expenses of apprehending, examining and committing offenders against laws of this state in said city and their confinement, shall be audited and paid by the supervisors of the county of Kent in the same manner as if such expenses had been incurred in any town of the said county.

SUITS TO RECOVER FINES, ETC.

(Sec. 466.) Par. 8. All suits which shall be commenced to recover any fine, penalty or forfeiture for the violation of any by-law, ordinance or regulation of the Common Council, or of any of the provisions of this act, shall be brought in the name of the city of Grand Rapids in any court having jurisdiction thereof.

NO PERSON DISQUALIFIED AS JUDGE, JUROR OR WITNESS BECAUSE OF RESIDENCE IN CITY.

(Sec. 467.) Par. 9. No person who is an inhabitant of the city, and having the other requisite qualifications therefor, and not specially exempt therefrom, shall be disqualified because of such inhabitancy from acting as a judge, justice or a juror in the trial or other proceedings in any suit brought to recover any such fine, penalty or forfeiture, nor from serving any process or summoning a jury in such suit, nor from acting in any capacity in any proceeding before or during the trial thereof, or in any proceeding after judgment therein taken to carry such judgment into effect; nor shall any person because of such inhabitancy be disqualified from being a witness on the trial of any issue or upon the taking of any inquisition or assessment, or any investigation of facts to which issue, inquest or investigation in any suit as aforesaid, the city or any city or ward officer was a party, or in which the city or such officer is interested.

PLEADINGS IN CERTAIN CASES.

(Sec. 468.) Par. 10. All of the provisions of the preceding sections in relation to the disqualification of any person because of his residence in the city, shall apply to all suits of whatever nature, civil or criminal brought in the name of the city of Grand Rapids, or on its account or in its behalf.

PLEADINGS IN CERTAIN CASES.

(Sec. 469.) Par. 11. In suits commenced before any justice of the peace or in any other court for the recovery of any fine, penalty or forfeiture for violation of any provisions of the statutes of this state or any provisions of this act, or of any by-law, ordinance or regulation of the Common Council, it shall not be necessary to file any declaration therein or to recite, or to name any plea in any writ or process, but the plea of the defendant shall be the same as in criminal cases and shall be to the complaint filed in such suit. If upon the trial of any such suit the defendant is acquitted, the judgment entered shall show that fact, and if convicted it shall show the judgment for the fine, penalty or forfeiture for which suit was brought and costs therein and the term of imprisonment, if any, in case of the non-payment thereof.

FINES, COSTS AND IMPRISONMENT.

(Sec. 470.) Par. 12. Every execution for any fine, penalty or forfeiture recovered for the violation of any of the provisions of the statutes of this state, or of this act, or of any by-law, ordinance or regulation of the Common Council, may be issued immediately on the rendition of the judgment and shall command the amount thereof to be made of the property of the defendant, if any such can be found, and if not, then to commit the defendant to the Kent County jail for such time as shall be fixed therein by the court from which such execution was issued. It shall be lawful for the officer receiving such execution to take the body of such defendant therein, unless such defendant shall point out or deliver to such officer sufficient goods and chattels belonging to such defendant, liable to execution and free from all encumbrances, to satisfy the same. The keeper of said Kent County jail shall receive the said defendant and keep him safely therein during the time mentioned in said writ unless he shall sooner pay the amount specified in such execution and the cost of his detention.

PAYMENT OF FINES AND COSTS BY CITY.

(Sec. 471.) Par. 13. No execution shall issue against the city for any judgment or costs recovered against it, but the Common Council shall allow and pay the amount of any final judgment or costs which may be recovered against the city in the same manner as accounts are audited and paid by the city.

PROCESS—HOW SERVED.

(Sec. 472.) Par. 14. All process issued against said city shall run against the city in the corporate name thereof, and such process shall be served by leaving a true copy of the same with the mayor or clerk of said city before the day of appearance mentioned therein.

DOCUMENTS TO BE USED AS EVIDENCE.

(Sec. 473.) Par. 15. All papers, books or other records of any matter required by the general statutes of this state, or any of the provisions of this act, or by the provisions of any by-law, ordinance, resolution or regulation of the Common Council to be kept in any of the several departments of the municipal government of the city, shall be deemed public records of such departments, and the same or copies duly certified by the custodian thereof, shall be prima facie evidence of their contents in all suits at law or in equity or in any other proceedings where evidence of their contents are required.

ALL FEES, COSTS, ETC., TO BELONG TO CITY.

(Sec. 474.) Par. 16. All fees, costs, charges, or income of whatever nature collected by any officer, agent or employee of the city, by virtue of his office or employment, shall be deemed to belong to the city, and shall be paid into the city treasury without delay and placed in the general fund thereof, if not otherwise expressly provided.

NOT NECESSARY FOR CITY TO FILE BOND.

(Sec. 475.) Par. 17. Whenever the city shall take any proceedings wherein by the statutes of the state a bond is required to be given, or shall be a party to any suit or proceeding in any court or an appellant from any judgment or final order of a court wherein by the statutes of the state, or by the rules and practice of the court where such suit or proceeding is to be commenced or is pending, or is sought to be taken, a bond is required to be given, such statutes or such rules and practice of the court shall not apply to said city, but such proceedings may be taken or such proceeding or suit brought in any court, or appeal taken from such final judgment or order, by said city without such bond being entered into by it.

NO OFFICER OR EMPLOYEE OF CITY TO HAVE ANY INTEREST IN ANY WORK, CONTRACT, PURCHASE OR SALE, FOR, WITH, FROM OR TO THE CITY.

(Sec. 476.) Par. 18. No officer or employee of the city or of any department thereof or of the Board of Education shall be a party to or directly or indirectly interested in or be the beneficiary of any work, contract, purchase or sale, for, with, from or to the city, or any department thereof, including the Board of Education; or to or in any work, contract, purchase or sale with any contractor in relation to any work, contract, purchase or sale, for, with, from or to the city or any department thereof, including the Board of Education, or in any work, contract, purchase or sale in which the city, including the Board of Education, has a direct or indirect pecuniary interest. Bids or contracts for or purchases of any material, machinery, process or thing, which, or the supply of which, is controlled by one person or company, or which is in any sense a monopoly, shall not be invited or made by or on behalf of the city or any department thereof, including the Board of Education, or included with other things to be bid upon or purchased, but must be invited and made separately. Any contract, purchase, sale or bid made in violation of the provisions of this section shall be absolutely void and of no force or effect against the city or any board or department thereof, including the Board of Education. Any officer, member of a board, or employee of the city, or of the Board of Education violating any of the foregoing provisions shall be forthwith deprived of his office or employment under the city government, if a city officer, board member or employee, pursuant to paragraph 10 of Title II. of the city charter; if a member of the Board of Education or of the Library Commission he shall be removed by those bodies under provisions substantially conforming to said paragraph 10 of Title II. of the said city charter.

REMOVAL FROM OFFICE.

(Sec. 477.) Par. 19. The mayor may remove any member of any appointive board at any time for inefficiency, inattention to his duties, misfeasance or malfeasance in office, but prior to the time of such removal the mayor shall make a written report to the Common Council

setting forth in detail his reasons for such removal, and said removal shall not become effective until approved by a vote of two-thirds of all of the aldermen elect of the Common Council.

MEANING OF TERM "PAVING" OR "PAVEMENT."

(Sec. 478.) Par. 20. Wherever the term "paving" or "pavement" is used in this act or the ordinances of the city, it shall be construed to mean any improvement or dressing of the streets, lanes or alleys of the city consisting of asphalt, brick, asphalt block, concrete, macadam, or covering the same with gravel or crushed stone.

RIGHTS UNDER FORMER CHARTER TO REMAIN INTACT.

(Sec. 479.) Par. 21. Nothing in this act contained shall be construed to destroy, impair or in any manner take away any vested right, right of action or remedy acquired or given by any of the provisions of the charter of the city hereby repealed, but the same shall be and remain as valid in every particular as if said charter had remained in full force and effect and this act had not passed; and all causes of action arising under such provisions are hereby expressly preserved intact. All proceedings, assessments, suits or prosecutions of whatever nature, civil or criminal, commenced under any of the provisions of such charter shall be carried on and completed the same as if such charter was still in force and effect. All proceedings, assessments or suits of whatever nature to be commenced on account of any right or remedy arising under any of the provisions of such charter and all prosecutions for any offence committed, or penalty or forfeiture incurred while such charter was in effect, may be commenced and enforced in the same manner in all respects and with the same effect, including any sentence thereunder, as if this act had not been passed and such charter was still the charter of the city, and such charter shall govern as to such rights, remedies, proceedings and punishments thereunder.

THIS ACT NOT TO AFFECT ANY ACTION TAKEN BY COUNCIL PREVIOUS TO ITS PASSAGE.

(Sec. 480.) Par. 22. Nothing in this act contained shall be so construed as to annul, impair or affect any ordinance, by-law, resolution or regulation of the city adopted by the Common Council before this act shall have taken effect and not inconsistent with the provisions of this act, but the same shall continue in full force until amended or repealed as completely as if this act had not been passed.

ALL OFFICERS TO FILL OUT THEIR TERMS OF OFFICE.

(Sec. 481.) Par. 23. All the officers of the city who may be in office at the time this act shall go into effect, unless otherwise expressly provided, shall continue to exercise the duties of their respective offices for the terms for which they were elected or appointed, and until their successors shall have been elected or appointed and duly qualified.

TITLE XVII.

JUSTICE COURTS.

JUSTICES—QUALIFICATION OF—ELECTION OF.

(Sec. 486.) Par. 1. There shall be two justices of the peace in and for the city of Grand Rapids, who shall be electors of the city and residents therein. They shall be attorneys at law, duly admitted to practice their profession in the several courts of this State and they shall be elected in the manner justices of the peace are now elected in the city, and shall hold their offices until their successors are elected and qualified. The justices of the peace now holding office in said city shall continue to hold the same until the expiration of their respective terms and until their successors are elected and qualified. The files, records and dockets appertaining to the offices of the former justices of the peace in said city shall be kept in the office of the clerk herein provided for. Either of the present or future justices is empowered to issue an execution according to law upon the judgments appearing upon such dockets, as if such judgments had been rendered by him.

JUSTICES—WHEN ELECTED—TERM OF OFFICE.

(Sec. 487.) Par. 2. Justices of the peace in said city, except where they shall be elected to fill vacancies, shall be elected at the annual charter elections held therein, and shall hold their offices for a term of four years from and after the fourth day of July, succeeding their election, and until their successors are elected and qualified.

ROOMS FOR JUSTICE COURTS, ETC.

(Sec. 488.) Par. 3. The Common Council of the city of Grand Rapids shall provide such rooms as shall be suitable for the use of holding justice courts and for jury purposes and an office for the clerk of said courts, which offices and rooms shall be as nearly contiguous to each other as may be found practicable by the Common Council of said city. The said Common Council shall also provide the necessary furniture, fixtures, dockets, books, blanks, stationery, etc., for use in the business of said courts and for heating and lighting the said rooms.

JUSTICES—SALARIES, FEES, OFFICE HOURS, ETC.

(Sec. 489.) Par. 4. Each of the justices of the peace of the city of Grand Rapids shall receive from the treasury of said city an annual salary of one thousand three hundred dollars, which salary shall be in lieu of all fees, costs and charges to which said justice would be entitled but for the provision of this act, except fees for the performance of marriage ceremonies, for taking acknowledgments and for administering oaths in matters not connected with suits or proceedings in justices courts in said city; such salary shall be paid to said justices in monthly installments as other officers of said city are paid.

Each of said justices shall have his court room open and he shall be in attendance from the hour of nine o'clock in the forenoon until twelve o'clock noon, and from the hour of two o'clock in the afternoon until four o'clock, Provided, That where either of said justices is actively engaged in the trial of a suit, he shall so continue at least until five o'clock in the afternoon, when it may be necessary so to do in order to finish the trial of the suit in progress.

JURISDICTION OF JUSTICES.

(Sec. 490.) Par. 5. Each of said justices of the peace in said city of Grand Rapids shall as against all other justices of the peace of Kent County, have exclusive jurisdiction of all acts and proceedings within their jurisdiction where both the parties thereto shall at the time of the commencement of such actions or proceedings be residents of said city. They shall also have like exclusive jurisdiction as against all other justices of the peace of said County where the original cause of action existed in favor of a resident of said city but has by him been assigned.

OATH OF OFFICE—JUSTICES TO HAVE SAME POWERS, ETC., AS JUSTICES IN TOWNSHIPS.

(Sec. 491.) Par. 6 The justices of the peace of the city shall file their oaths of office in the office of the clerk of the County of Kent, and shall have in addition to the duties conferred by this act on them, the same jurisdiction, powers and duties conferred on justices of the peace in townships; and in all civil actions the said justices of the peace shall have concurrent jurisdiction with the circuit courts to the amount of five hundred dollars, and in actions of tort to the amount of three hundred dollars.

DUTY OF JUSTICES.

(Sec. 492.) Par. 7. It shall be the duty of the justices of the peace of said city to keep their offices in said city and attend to all complaints of a criminal nature which under the general laws of the State may come before them.

WHEN JUDGMENT OR VERDICT OF A JUSTICE MAY BE SET ASIDE— MOTIONS AND AFFIDAVITS FOR NEW TRIAL—EXECUTION UPON A JUDGMENT.

(Sec. 493.) Par. 8. The justice before whom any cause has been tried and verdict or judgment rendered shall have the same power and authority to set aside the verdict or judgment and grant a new trial therein, upon legal cause shown therefor, as the circuit courts of the State possess: Provided, That a motion in writing be made and filed with the clerk of said justice courts within five days after the rendition of the verdict or judgment in said cause. Said motion shall briefly and plainly set forth the reasons and grounds upon which it is made. Affidavits upon which the motion is founded shall also be filed at the time of filing said motion, and notice of the hearing of such motion with copy of the motion and affidavits filed as aforesaid, shall be served upon the adverse party or his attorney at least two days before the hearing thereof. Such motion shall be determined within two days after submission and the same shall be submitted within one week after the motion has been filed. Should such motion for a new trial be granted, the costs of the former trial, together with the costs of the new trial shall abide the final determination of the suit and be

taxed in favor of the prevailing party, provided that the whole sum so incurred shall not exceed the sum of twenty dollars. The time for taking an appeal from a judgment in case such motion be not granted shall begin to run from the time when such motion shall be overruled. In no case shall the pendency of such motion stay the issuing and levy of an execution upon a judgment entered therein; but in case of a levy under execution pending such motion no sale of property so levied shall be advertised or made until the final determination of such motion.

WHEN APPEALS MAY BE TAKEN FROM JUDGMENT.

(Sec. 494.) Par. 9. No appeal shall be taken from any judgment of any justice of the peace except in the following cases:

(First.) When said justice shall disallow any claim in favor of any plaintiff or defendant in any cause, in whole or in part, to the amount of fifty dollars or more, or the verdict of the jury before whom the same shall be tried shall be for the sum of fifty dollars or upwards.

(Second.) When said justice shall render a judgment to the amount of fifty dollars or upwards, exclusive of costs, the party aggrieved may take an appeal therefrom to the Circuit Court for Kent County; Provided, That where the judgment rendered shall be for less than the sum of fifty dollars, the party conceiving himself aggrieved thereby may take a special appeal or certiorari upon questions of law to the said circuit court in the manner provided by the general laws of the State.

(Third.) Appeals may be authorized by the Circuit Court of Kent County when the party making the appeal has been prevented from making a defense upon the merits of the case in which such appeal is taken by circumstances not under his control; and such appeal may also be authorized by the Circuit Court of Kent County when in the opinion of such court justice requires that it be granted.

(Fourth.) Under no circumstances shall any appeal be allowed or authorized after five days from the rendition of judgment, except as herein otherwise provided. In all cases where the parties against whom such appeal is sought have appeared in said justice court by attorney or agent, it will be sufficient to serve such attorney or agent with notices of all subsequent proceedings in such case, and all orders made therein by said Circuit Court may be served on said attorney or agent and such service shall have the same effect as though made on the party against whom such appeal has been taken.

FEES FOR FILING APPEALS—CLERK OF COURT TO FILE RETURN TO APPEAL WITH CLERK OF KENT COUNTY.

(Sec. 495.) Par. 10. Before any affidavit for appeal or writ or notice of certiorari shall be served on any one of said justices in addition to the fees allowed by law for making returns to an appeal or certiorari the entry fee for filing the same in the Circuit Court shall be paid to the said clerk thereof by the appellant or plaintiff in error, and the said clerk shall as early as possible file a return to such appeal or writ of certiorari in the office of the clerk of the Circuit Court for Kent County, and shall pay over to him the fees as aforesaid, and if said return is not filed with the clerk of the Circuit Court within ten days after the appeal costs or costs on certiorari shall have been paid, a writ of mandamus may be issued in the Circuit Court for the County of Kent to the clerk of the justices courts compelling him to make such return forthwith, and he shall be personally liable for the costs, if any shall be awarded in such proceedings.

BONDS OR FUNDS DEPOSITED WITH CLERK OF COURT TO SECURE PAYMENT OF JUDGMENT, COSTS, ETC.

(Sec. 496.) Par. 11. In all cases where a party is required or allowed by law to give a bond as a condition of commencing or prosecuting any suit, action or proceeding in such justices courts, such party may execute and file such bond, or he may in the discretion of the court deposit with the clerk thereof the amount of the bond required in legal tender of the United States; and in garnishment proceedings the principal defendant may have any money or effects released which have been garnished by filing with the justice before whom the case is pending a bond approved by said justice in double the amount of plaintiff's claim stated in his affidavit, and not less than fifty dollars, or deposit with the clerk of the court an amount equal to such a bond in money which money shall remain with said clerk until disposed of by the court according to law. A certificate of such deposit setting forth the case in which the amount thereof, the person by whom, the purpose for which and the time when deposited shall be given to the party depositing the same with the clerk of said court. Upon the final disposition of the case, action or proceeding in which such deposit was made, in case the party making such deposit shall be adjudged liable to pay the costs of such suit or proceeding or to pay any other sum to secure the payment for which said deposit was made, then such funds so deposited shall under the direction of the court be applied in payment and satisfaction of the same. Should any surplus remain after satisfying such order of the court, the same shall be returned to the party depositing it.

FINES, ETC., FOR CONTEMPT OF COURT.

(Sec. 497.) Par. 12. The justices of the peace mentioned herein shall have the power to make and adopt such rules of practice and decorum in their courts as to them may be deemed advisable for the purpose of facilitating the business of said courts, and any party violating any rule relating to decorum in said court shall be guilty of contempt and may be so adjudged by the member of said court where such rule shall have been violated, and for such violation the said justice may fine the offender in a sum not to exceed fifty dollars, or commit said offender to the common jail of Kent County for a period not exceeding thirty days. If only a fine be imposed in default of the payment thereof, said offender may be committed to said common jail until said fine is paid for a term not exceeding thirty days.

WHEN JUSTICES MAY ACT AS POLICE JUDGE—COMPENSATION FOR SAME.

(Sec. 498.) Par. 13. It shall be part of the duties of each of said justices of the peace to act as judge of the Police Court of the city of Grand Rapids whenever, from any cause, the said judge of Police Court shall be unable to perform the duties of his office, and whenever there shall be a vacancy in said Police Court by reason of the death of the judge thereof, or otherwise, and for such service the said justice of the peace so serving shall receive as compensation the sum of three dollars per day in addition to his regular salary as such justice of the peace, one-half of which salary shall be paid by the County of Kent and one-half shall be paid by the said City of Grand Rapids in like manner, as the salary of said police judge is paid. The justices of the peace shall exercise all the powers, authority and jurisdiction of said police judge, as aforesaid, while acting in his place.

REMOVAL OF JUSTICE FROM OFFICE.

(Sec. 499.) Par. 14. Any justice of the peace of the city may be suspended or removed from his office by the Circuit Court for the County of Kent for inefficient or unfaithful performance of his duties, or for any official misconduct, on charges specially preferred by the Common Council of the city of Grand Rapids, or any member or officer thereof, or by three electors of said city, founded on affidavit filed in said Circuit Court, specifically stating the charges, a copy whereof shall be served upon such justice in such manner as said Circuit Court shall direct.

BOOKS, DOCKETS, ETC., KEPT BY CLERK OF COURT TO BE OPEN FOR INSPECTION, ETC.

(Sec. 500.) Par. 15. All dockets papers and office books kept by the clerk of the justices courts shall at all times be subject to the inspection and examination by the Common Council or any member or officer thereof. It shall be the duty of said clerk to produce such dockets, papers, and books at all times whenever and wherever the Common Council shall direct, and if he shall refuse to so produce such dockets, papers or office books, as directed and required, the Circuit Court for the County of Kent, may on proper application being made make an order requiring the same to be produced and enforce obedience thereto.

JUSTICES TO INSTRUCT JURY IN JURY CASES.

(Sec. 501.) Par. 16. It shall be the duty of said justices to instruct the jury in jury cases as to the law applicable to the case, which instructions shall be received by the jury as the law of such case.

NOTICE AND SALE OF STOLEN PROPERTY.

(Sec. 502.) Par. 17. It shall be the duty of each of said justices of the peace at the first regular meeting of the Common Council in the months of August, November, February and May in every year, to make a statement on oath to be presented to the Common Council of all goods, wares and merchandise seized as stolen property that shall then remain unclaimed in the offices of either of said justices of the peace and immediately thereafter to give notice once in each week for four weeks in one of the newspapers printed in said city of Grand Rapids to all persons who may be interested in such property or make claim thereto: Provided, always, That if any goods, wares, merchandise or chattels of a perishable nature, or which shall be expensive to keep, shall at any time remain unclaimed in the office of either of said justices, it shall be lawful for said justice to sell the same at public auction at such time and after such notice as he may be directed to give by the Common Council of said city.

RETURN OF STOLEN PROPERTY TO OWNERS.

(Sec. 503.) Par. 18. It shall be the duty of each of said justices of the peace aforesaid who may recover or obtain possession of any stolen property, on receiving satisfactory proof as to the ownership of such property from the owner or his agent, to deliver such property to the owner upon his paying necessary and reasonable expenses which may have been incurred in the recovery, preservation or care of such property, including the expense of advertising the same.

SALE OF STOLEN PROPERTY.

(Sec. 504.) Par. 19. It shall be the duty of each of the justices of the peace aforesaid to cause all property unclaimed after the expiration of the notice specified in paragraph 17 of this title, money excepted, to be sold at public auction to the highest bidder, unless the prosecuting attorney of Kent County shall direct that it remain unsold for a longer period to be used as evidence in the administration of justice, and the proceeds thereof forthwith to pay to the treasurer of the city of Grand Rapids together with all money, if any, which shall remain in his hands after such notice as aforesaid, less the expense of sale.

JUSTICES EXERCISING CIVIL JURISDICTION DEEMED JUSTICES OF KENT COUNTY.

(Sec. 505.) Par. 20. The justices of the peace of said city exercising civil jurisdiction shall be deemed justices of the peace of Kent County, and be subject to the general laws of the State in relation to civil causes before justices of the peace, and appeal from their judgment may be made to the Circuit Court for the County of Kent in the same manner as appeals from judgments of justices of the peace in towns are made, except as herein otherwise provided.

AUTHORITY OF JUSTICES IN CRIMINAL CASES.

(Sec. 506.) Par. 21. The justices of the peace of said city shall have all of the authority of justices of the peace in towns in criminal matters as well as civil, and perform all the duties herein required of them either under the State law or by the provisions of this act

CLERK OF THE JUSTICE COURTS—ELECTION—TERM OF OFFICE—SALARY—BOND—WHEN MAY BE REMOVED—APPOINTMENT OF DEPUTY, ETC.

(Sec. 507.) Par. 22. At the annual charter election in 1907, and every two years thereafter, there shall be elected a clerk for such justices of the peace to be known as "Clerk of the Justice Courts of Grand Rapids," who shall hold his office for the term of two years from the first Monday of May next succeeding his election and until his successor is elected and qualified. Said clerk shall receive from the treasurer of said city an annual salary of one thousand dollars, to be paid to him in monthly installments, as the other officers of said city are paid. He shall have power to appoint one deputy and revoke any such appointment at pleasure; the compensation of such deputy shall be fixed by the Common Council of said city, and such deputy shall be paid in the same manner as other city employees are paid. Any deputy so appointed shall have the power to perform all of the duties of said clerk, and the said clerk shall be responsible for the acts of such deputy. Said clerk may require such bond or other security from such deputy as he may deem proper. The said clerk of said courts shall file in the office of the city clerk of said city a bond, approved by the Common Council of said city, in the penal sum of two thousand dollars, with two or more sufficient sureties conditioned that he shall well and truly perform his duties as clerk of said courts and account for and pay over all moneys which shall be received by him or his deputy, to the person or persons lawfully entitled to receive the same. The Common Council shall have power to remove said clerk at any time for causes provided for in the charter of the city of Grand Rapids.

CLERK OF JUSTICE COURTS—OFFICE HOURS—DUTIES, ETC.

(Sec. 508.) Par. 23. The office of said clerk shall be open and he or his deputy be in attendance therein from eight o'clock in the forenoon until noon and from one o'clock to five o'clock in the afternoon on all days when the court is in session. It shall be the duty of said clerk to assist said justices in the preparation of process and to keep full and complete dockets of the proceedings before each of said justices in the manner provided by law. Said clerk shall file and safely keep all books and papers belonging to said office. Said clerk shall also enter in a book the names of all persons who shall sit as jurors in said courts in the trial of causes, such names to be arranged alphabetically, together with the date that each juror so sat and a reference to the page of the docket where the proceedings of the trial are entered. The said clerk and his deputy shall, by virtue of their office, be empowered to administer oaths, and take disclosures in garnishment cases. The said clerk shall receive all fees, costs, fines and dues of every description that shall become due and payable on account of proceedings in said courts before said justices, except fees for the performance of marriage ceremonies, for taking acknowledgments and for administering oaths in matters not connected with suits or proceedings pending in said justice court, and shall keep an account of the same and pay over all such fees, costs, fines, penalties, forfeitures and dues (except such as are by law required to be paid to the clerk of the Circuit Court for the County of Kent, upon the removal of causes from such justices courts to said Circuit Court, and such as are required by law to be paid to the County treasurer of said county), to the treasurer of the city of Grand Rapids for the benefit of said city, such payments to be made weekly. Said clerk shall also receive all other moneys paid into such courts for or on account of proceedings therein and shall pay over all such moneys to the person or persons lawfully entitled thereto, or to his or their duly authorized agent or attorney.

FEES TO BE PAID CLERK OF COURT.

(Sec. 509.) Par. 24. Before any civil action or proceeding shall be commenced in any of said justice courts there shall be paid to the clerk of said court by the party commencing the same, an entry fee of one dollar, and before the trial of any such cause or proceeding shall be commenced there shall be paid the same party a judgment fee of one dollar, but in case of nonsuit before the commencement of such trial no judgment fee shall be required. Proceedings in garnishment shall be treated as an auxiliary action and there shall be paid to the clerk of said court by the party commencing the same, an entry fee of 50 cents, and when an issue of fact shall be joined in respect to the liability of the garnishee or garnishees in such case a judgment fee of one dollar shall be paid before such trial shall commence. Upon the issuing of an execution upon any judgment rendered in said court there shall be paid to the clerk of said court the sum of 50 cents, which said sum together with other costs, shall be taxed in favor of the party paying the same if he be the prevailing party in the suit. For all services and proceedings subsequent to the issuing of the execution or for the purpose of staying proceedings or removing causes to an appellate court, there shall be paid to the said clerk the fees provided by law. Upon the adjournment of any cause there shall be paid to the clerk of said court the sum of 25 cents, and in cases of adjournment by stipulation of the parties the costs of such adjournment shall be mutually borne by said parties.

**CLERK TO ASSIGN CAUSES IN COURT TO JUSTICES RESPECTIVELY IN
REGULAR ROTATION, ETC.—WHEN CASES MAY BE TRANSFERRED.**

(Sec. 510.) Par. 25. The process issued from said justice courts shall be signed by the justice before whom the cause in which it was issued was commenced or is pending, and said clerk shall assign said causes begun in said courts to the justices respectively in regular rotation as nearly as practicable. If upon the return day or adjourn day of any cause the justice by whom the process was issued shall be absent at the time or is engaged in the trial of any other cause pending in said court, the other justice thereof, if present, shall proceed therein as though it had been originally commenced before him. On the return day of any process before the justice of the peace before whom the cause has been assigned by the clerk, any party to said cause may have a new assignment of the same by presenting to such justice an affidavit therein made by himself, his agent or attorney, stating that the person making such affidavit has good reason to believe and does believe that said justice to whom said cause has been assigned is interested therein or is biased or prejudiced against the party in whose behalf the affidavit is made. Said justice shall thereupon transfer said cause to the other justice of said court who shall proceed therein as if the same had originally been commenced before him. In all cases where causes are transferred from one justice to the other, the docket entries therein shall be made in the docket of the justice by whom the original process shall have been issued. Docket entries of proceedings had before each of said justices shall be made by the justice or clerk of said court and signed by the justice before whom such suit or proceedings were had, and upon the same day that such proceedings were had.

TRIAL BY JURY.

(Sec. 511.) Par. 26. If any party to a cause before either of said justices shall demand a trial by jury, he shall pay the fees therefor in advance to said clerk, and the same shall be disposed of by the clerk in the manner now provided by law and the moneys paid for jurors shall be taxed as costs in favor of the party paying the same, if he be the prevailing party in the suit, in addition to such other costs as he may be entitled to recover.

FEEES IN CRIMINAL CASES.

(Sec. 512.) Par. 27. In criminal cases the same justice fees may be collected and in the same manner as in such proceedings before justices of the peace in townships, except that the same shall be received by the said clerk and paid to the treasurer of said city as provided in civil suits.

**UNLAWFUL FOR CLERK OR JUSTICES TO ACT AS COUNSEL OR AGENT
FOR ANY PARTY IN ANY SUIT.**

(Sec. 513.) Par. 28. It shall be unlawful for said justices of the peace or said clerk or deputy clerk of said court to act as counsel, agent or attorney for any party in any matter, suit or proceeding within the jurisdiction of said court.

REPEAL—WHEN ACT TAKES EFFECT, ETC.

(Sec. 514.) Par. 29. All acts or parts of acts contravening this act are hereby repealed: Provided, That all proceedings pending in the said courts at the time this act shall take effect under the law heretofore relating to justices of the peace and all judgments of said courts may be had and enforced under the provisions of this act and carried through to termination hereunder.

TITLE XVIII.

POLICE COURT.

POLICE JUDGE AND HIS ELECTION—TO BE ATTORNEY.

(Sec. 520.) Par. 1. There shall be established and organized in and for the city of Grand Rapids, a municipal court to be known as "The Police Court of Grand Rapids," and there shall be elected a judge and clerk of said court, as hereinafter provided. The police judge of said court existing under the law at the time this act takes effect and now officiating in said court shall continue to hold his office and exercise the powers and duties herein conferred under the title of **Police Judge, until the expiration of the time for which he was elected.** At the charter election in the city of Grand Rapids held in April, 1906, a police judge of said court shall be elected to hold his office for the term of four years from and after the first Monday in May next after his election and until his successor shall be elected and qualified. Before entering upon the duties of his office he shall take, subscribe and file in duplicate with the clerk of said city and with the clerk of Kent County, respectively, the constitutional oath of office. He shall be an attorney and counselor at law, entitled to practice in all the courts of this State and a resident in and a qualified elector of said city.

CLERK AND HIS ELECTION.

(Sec. 521.) Par. 2. At the first annual charter election to be held in said city next after the passage and approval of this act, and at every second annual charter election thereafter, there shall be elected a clerk of the police court in the manner provided by law for the election of the judge of said court. He shall enter upon the discharge of the duties of his office on the first Monday of May next after his election, and hold the same for the term of two years thereafter, and until his successor shall be elected and qualified. He shall be a resident in and a qualified elector of said city. The present clerk of said court shall serve out the remainder of his term and perform all of the duties that may be required from such official under the provisions of this act.

BOND OF CLERK.

(Sec. 522.) Par. 3. Before entering upon the duties of his office the clerk of said police court shall take, subscribe and file with the clerk of said city the constitutional oath of office, and give a bond to the City of Grand Rapids and a bond to the treasurer of Kent County, each in the sum of two thousand dollars, with two sufficient sureties to be approved by the mayor of said city and the treasurer of said County, respectively, conditioned for the faithful discharge of the duties of his office and to account for and pay over to the proper treasurers in the manner herein provided, all moneys which shall come into his hands by virtue of his said office. The bond to the city shall be filed with the city clerk and the bond to the treasurer of said County shall be filed with said treasurer.

VACANCIES IN OFFICE OF JUDGE AND CLERK AND FILLING SAME.

(Sec. 523.) Par. 4. In case of the removal from the city of the judge of said police court, his death, resignation or removal from office, his office shall be deemed vacant. The same causes shall be deemed to constitute a vacancy in the office of clerk of said police court. If from any cause a vacancy shall occur in the office of judge or clerk of said police court, the Common Council may order a special election to be held for the election of a judge or clerk, as the case may be, for the remainder of the term of said judge or clerk, which said election shall be conducted in the same manner as the annual city election. The Common Council, in the event of a vacancy in the office of the clerk of said court by reason of death or otherwise, may, by appointment, fill such vacancy until his successor shall have been elected and qualified. In the event of no special election having been called, the successor of said appointee shall be elected at the next regular charter election of the city held thereafter. In the event of a vacancy in the position of judge of said police court the Common Council, instead of calling a special election, may temporarily, by a majority vote of all the members elect thereof, elect some suitable and competent person police judge to fill such vacancy until the first Monday of May next succeeding; and in the event of such vacancy, if the Common Council shall not decide to call a special election to fill the same, there shall be elected at the next charter election a judge for said court to fill the unexpired term. Such person so elected shall qualify for the position upon the first Monday of May after he shall have been elected.

DUTIES OF PROSECUTING ATTORNEY AND CITY ATTORNEY.

(Sec. 524.) Par. 5. It shall be the duty of the prosecuting attorney of Kent County or his authorized deputy, or assistant, to attend all sessions of said police court and prosecute all persons charged with a violation of any law of the State of Michigan. It shall be the duty of the city attorney, or his authorized assistant, to attend all sessions of said court and prosecute all persons charged with a violation of the provisions of the city charter, or any ordinance of the city.

COURT ROOMS—JURISDICTION OF POLICE COURT—CHALLENGES OF JURORS.

(Sec. 525.) Par. 6. The police judge shall hold a court in said city at a suitable place, to be provided by the Common Council thereof, styled "The Police Court," and which shall not be a court of record. Said police judge shall have power and authority to take complaints, issue all processes necessary in said court, to be signed by or attested in the name of said judge, and the court shall have the same power to punish contempts and preserve order, to compel the attendance of witnesses, parties and jurors and determine as to the qualification of jurors, and such further powers incident to a circuit court and the judge thereof, as may be convenient in the exercise of the jurisdiction and powers herein conferred upon him as such court. He shall also have all the powers and authority of a justice of the peace, except in the trial of civil cases. And in every trial in said court by jury, the city or the people, as the case may be, shall be entitled to but two peremptory challenges, and the accused to but two peremptory challenges.

JURISDICTION CONTINUED—CHARTER AND ORDINANCES—PRACTICE, ETC., WHEN ARRESTS MAY BE MADE WITHOUT PROCESS.

(Sec. 526.) Par. 7. Said police court shall have exclusive original jurisdiction to issue process for, hear, try and determine all cases

against persons charged with violation of the provisions of the charter of said city or of any act of the legislature relating to the government thereof and of the ordinances of the Common Council thereof already enacted or that may hereafter be enacted unless otherwise provided in this charter, anything in any other law of this State to the contrary notwithstanding. All of the provisions of the law relating to complaints against offenders for violations of the charter of said city or any ordinance of the Common Council of said city or of the acts aforesaid, and relative to process proceedings and judgments therein, and to executions upon such judgments and proceedings thereon, shall apply to said police court. Said police court shall also have exclusive original jurisdiction to issue process for, hear, try and determine all cases of misdemeanor and of a quasi criminal nature committed within the corporate limits of said city heretofore or hereafter within the jurisdiction of justices courts, anything otherwise herein or in any other law of this State contained, to the contrary thereof in any wise notwithstanding. Said police court shall also have exclusive original jurisdiction to issue process for, hear, try and examine, and to hold to bail or discharge all persons charged therein with the commission of felonies within the corporate limits of said city. Said police court shall have authority to sentence any person convicted therein of the commission of a misdemeanor and triable in justice courts of this State the same as justices of the peace may by law. It shall not be necessary to file a record of any conviction had in said court but the docket or journal entries and files shall be prima facie evidence of all proceedings had in said court. And in all cases of the violation of the provisions of the charter or ordinances of said city, each member of the police force may make arrest without process, when committed in his presence, in which case complaint and arraignment shall be made without delay.

PRACTICE—PROCESS—PURSUIT OUTSIDE THE CITY—SHERIFF'S RECORD.

(Sec. 527.) Par. 8. The practice in said court may be the same as practice in courts of justices of the peace in criminal cases. And the laws of this State relative to such practice and the procedure before justices of the peace in criminal cases shall, except as herein otherwise provided, be followed in said police court. All process issued out of said court shall be directed to the chief of police, or any member of the police force of said city, or to the sheriff of Kent County, but no such process shall be served or executed by the chief of police or any member of the police force outside of the corporate limits of said city except as in this act otherwise provided, unless in case of immediate pursuit in view of such officer, in which case he or they may pursue and arrest the same as the sheriff of the County might in like case do. It shall be the duty of the sheriff to keep a record of all process served by him outside of said city, which record shall show the date of the process, name of the accused, a summary of the proceedings had therein and the amount of fees and charges of the officers who shall execute the same.

FEES PROHIBITED—SALARIES OF JUDGE AND CLERK.

(Sec. 528.) Par. 9. The police judge and clerk shall receive no fees for their services performed under this act, but in lieu thereof the police judge shall receive an annual salary of one thousand eight hundred dollars, one-half of which shall be paid by the city of Grand Rapids, monthly, in the manner provided by law for the salaries of city officers, and one-half of which shall be paid by the treasurer of

the County of Kent out of the treasury of said County in the manner provided by law for the payment of the salary of the prosecuting attorney. The clerk of said police court shall receive an annual salary of one thousand two hundred dollars, to be paid in the same manner as the salary of the police judge, one-half of which shall be paid by said city, and one-half thereof by the treasurer of the County of Kent, out of the treasury of said County. Neither the chief of police nor any member of the police force of said city shall be entitled to receive for his own use any fees for services performed under this act.

OFFICES OF JUDGE AND CLERK, FURNITURE AND SUPPLIES.

(Sec. 529.) Par. 10. It shall be the duty of the Common Council of said city to provide a suitable office for the judge and clerk of said court adjacent to the court room thereof as near as may be, and such necessary furniture, light, fuel, records, blanks, stationery and other articles as may be required for the judge, court, clerk, jury and other officers of said court. The office of said judge shall be separate from that of the clerk.

COURT ALWAYS OPEN—ADJOURNMENT OF CASES—BAILIFF AND HIS ASSISTANT.

(Sec. 530.) Par. 11. The police court shall always be open for business, but may adjourn its sittings from day to day and from time to time, as may be convenient, and not inconsistent with the dispatch of business. Cases and examinations pending in said court may be adjourned from time to time, not exceeding three months from the arraignment of the accused therein, unless the court shall be satisfied by proper evidence that the attainment of justice requires a further continuance, and then only for such further time as may be necessary to accomplish such object. The judge of said court shall appoint a good and competent elector of said city bailiff of said court, which appointment shall be in writing signed by such judge and filed with the clerk of said court as a part of the records thereof, and thereupon said clerk shall make a duly certified copy of such appointment and file the same with the Board of Police and Fire Commissioners of said city, which board shall at that time or at its first session thereafter, by proper resolution duly clothe such person with police powers, and he shall thereupon be a policeman of said city, vested with all the powers, rights and liabilities of such officers and of police constables, but not to receive pay as such policeman. The person thus appointed may be removed at the pleasure of such judge. Said bailiff shall receive a salary at the rate of eight hundred dollars per year, to be paid in the same manner as the salary of the judge of said court is paid; and upon a vacancy occurring in said office by removal or otherwise, the same shall be immediately filled as above provided. One member, at least, of the police force of said city shall attend each session of said court, to assist the bailiff.

INSTRUCTIONS TO JURIES—APPEALS—DRAWING JURIES—PRACTICE.

(Sec. 531.) Par. 12. It shall be the duty of the judge of said court to instruct the jury as to the laws applicable to any case on trial before a jury, which instructions shall be received by the jury as the law of the case. The defendant shall have the right of appeal and certiorari from final judgment of said court as provided by law for appeals and certiorari from final judgments of justices of the peace in criminal cases, provided such appeal or certiorari shall be taken and perfected within twenty-four hours from the time of the court pronouncing its

judgment or sentence. In State criminal cases, appeals and writs of certiorari shall be taken to the circuit court for the County of Kent. Juries shall be drawn and appeals and writs of certiorari, both in city and State cases, shall be taken, perfected and returned in the manner provided by law for like acts before justices of the peace in criminal cases, except as herein otherwise provided.

CITY JUSTICES TO BE ASSISTANT POLICE JUDGES—EXTRA COMPENSATION—COUNCIL TO DECIDE IN CASE OF DISAGREEMENT ABOUT WHO SHALL SERVE.

(Sec. 532.) Par. 13. Each of the justices of the peace of the city of Grand Rapids shall be ex-officio assistant police judges of said court, who shall possess the same qualifications as are required of the police judge, and exercise the same powers, authority and jurisdiction that are herein conferred upon said police judge in case of the absence, inability or disability of the police judge to perform the duties of his office. In the event of a vacancy caused by the death of said police judge, one of said justices of the peace shall perform such duties as assistant police judge until such vacancy shall have been filled in the manner hereinbefore provided. The justice of the peace who shall act as assistant police judge shall receive pay for the time he shall so officiate at the rate of three dollars per day, to be paid in the same manner as the police judge is paid, one-half by the city of Grand Rapids and one-half by the county of Kent. Should there be any disagreement between the justices as to who shall serve in police court, the Council shall decide the matter by vote.

VIOLATIONS OF ORDINANCES—CHARTER—PRACTICE—DISPOSITION OF FINE MONEY—REPORT OF CLERK.

(Sec. 533.) Par. 14. Cases commenced in the name of said city for violations of the provisions of the charter or ordinances thereof, or of any act of the legislature relating to the government thereof, shall be prosecuted and proceeded in, as in other criminal cases, and the judgment thereon, and the final process upon such judgment shall conform to the practice in other criminal cases; but all fines and costs collected in such cases shall be by the clerk of the police court paid to the treasurer of the city of Grand Rapids on the first Monday of each and every month, or within three days thereafter; and all fines and costs collected in state criminal cases shall at the same time be paid to the treasurer of the county of Kent by the clerk of said court, and receipts therefor shall be duly issued to said clerk. Said clerk shall at the same time report in writing to the Common Council of said city in city and state criminal cases, and to the board of supervisors in state criminal cases, the names of all persons tried in said court during the preceding month, the offense charged against each, and the amount of fines and costs collected by him in each case, and shall make oath thereto that the report is correct, and that he has paid over all the said moneys respectively in accordance with the provisions of this act.

AMOUNT OF FEES AND TAXING COSTS, AND PAYING FEES.

(Sec. 534.) Par. 15. The fees and costs in each case in said court, whether under the laws of this state, or under the charter or ordinances of said city, shall be the same as are or may be provided by law for like cases before justices of the peace in criminal cases and shall be taxed by said clerk. The fees of witnesses, jurors, sheriffs, and constables, other than police officers of said city, shall when col-

lected be paid to the party entitled to the same by said clerk. If the defendant shall plead guilty to the offense charged or be found guilty thereof on trial by said judge, judgment for costs accruing in the case shall be rendered against and paid by said defendant in addition to the fine, penalty or forfeiture imposed.

SECURITY FOR COSTS AND JUDGMENT AGAINST PRINCIPAL AND SURETY.

(Sec. 535.) Par. 16. The said police judge or clerk shall have authority in all cases, state or city, at his discretion, either before or after issuing of process, to require of the complaining witness security for costs to the satisfaction of said judge or clerk, and such surety or sureties shall sign a memorandum in writing to that effect, which said clerk shall keep as a part of the record in the case. If the defendant or accused be discharged on examination or acquitted on trial, the said police court shall enter a judgment for costs against the surety or sureties and complaining witness, either or both of them, which shall be of like force and effect, and shall be collected as upon judgments rendered by a justice of the peace in actions commenced by warrant, and the execution shall be in like form as executions upon said judgments; provided, however, before rendering such judgment said court shall cause to be certified on the record that such payments of costs by such complainant is just and equitable.

COUNTY TO PAY HALF THE EXPENSE OF SAID COURT—BUT NOT MORE THAN \$2,000—AND METHOD OF COLLECTING SAME.

(Sec. 536.) Par. 17. One-half of all costs and expenses of said city in maintaining and providing for said court other than the salaries of its officers shall be paid to the treasurer of said city annually by the treasurer of said county out of the treasury of said county, at the close of the regular annual session of the board of supervisors of said county: Provided, that one-half of the whole amount of the expense of said city for salaries of the police judge and clerk of the police court and rent of court room and office of said clerk, and records, blanks and stationery for use of said court and the officers thereof to be so paid, in any one year shall not exceed the sum of two thousand dollars. It shall be the duty of the treasurer of said city at the first day of each annual session of said board to present the claim of said city therefor duly certified, and said board shall, at the same session, audit and allow the same, if found correct, and order the payment thereof as aforesaid.

KEEPING RECORDS—CLERK CUSTODIAN—REQUISITIONS FOR SUPPLIES—SIGNING DOCKET ENTRIES—CLERK TO RECEIVE ALL MONEYS—DEPUTY CLERK—OATH AND BOND—COMPENSATION—POWERS AND DUTIES OF CLERK.

(Sec. 537.) Par. 18. The clerk of the police court shall keep and preserve the records and files of said court, and do all the necessary clerical work of said court, except as hereinafter provided, and be the custodian of the records, files and property thereof. He shall provide the court and its officers, by making requisition on the common council thereof, with the necessary stationery, records, blanks, and other articles. The journal or docket entries of said court shall be signed by the judge thereof. Said clerk shall receive and account for all moneys collected in said court. He shall annually nominate a suitable person as deputy, who shall be confirmed by the Common Council of said city. Such deputy shall, before acting, take

and file the oath of office and make and file like bonds as are required of the clerk. The said deputy clerk shall perform the duties of said clerk when so required by said judge, and during the absence of said clerk, for which he shall receive compensation for the time he shall officiate at the rate of three dollars per day, to be paid in the manner hereinbefore provided for the payment of the salary of the judge of said court, which amount so paid to said deputy shall, when paid, be deducted from the salary of the clerk of said court. In case the office of said clerk shall become vacant by resignation or as hereinbefore provided, said deputy clerk shall become the clerk of said court until the next charter election of the city (or until such vacancy shall otherwise have been filled), and thereupon it shall become his duty to file bonds as clerk of said court, and appoint a deputy as hereinbefore provided. Said clerk shall not be concerned as counsel in any case in said court. Said clerk may sign and seal, either with a scroll or device (and if with a device, such device must be approved and adopted by said police judge, by an order filed and recorded by said clerk as a part of the records of said court), all writs and process issuing from said court as provided in this act. He shall have power to administer oaths, take recognizance or bail, swear witnesses and jurors, and to do all acts usual and proper to be done by the clerk of the Superior Court of Grand Rapids, within the jurisdiction of said police court.

SUSPENSION AND REMOVAL OF JUDGE.

(Sec. 538.) Par. 19. Said police judge may be suspended from his said office and removed therefrom in the same manner and form as provided by law for the suspension and removal of justices of the peace.

COMMITMENTS.

(Sec. 539.) Par. 20. Whenever any person shall be sentenced by the police court to confinement in any place of imprisonment outside of the corporate limits of said city, it shall be the duty of the sheriff or any deputy sheriff of Kent county, or any member of the police force designated by the police judge, to take, transfer and deliver such sentenced person under commitment of said court to such place of imprisonment. All other commitments to any place of imprisonment in the county of Kent may be executed by said sheriff or any member of the police force of said city.

STENOGRAPHER AND COMPENSATION.

(Sec. 540.) Par. 21. In case of examinations of offenders by said police court for offenses committed against the criminal laws of this state, when said police court has jurisdiction to examine and hold to bail only, it shall be lawful for the Board of Supervisors of the county of Kent to appoint, on the recommendation of said court, some suitable stenographer for said court, to take down in shorthand the testimony in any such examination; and any stenographer so appointed shall receive such compensation for the time by him expended in so taking down such testimony, and such price per folio for writing out in long-hand or on a typewriter such testimony so taken in shorthand, as shall be fixed by the Board of Supervisors of Kent county, the same to be allowed and paid out of the treasury of said county.

PENDING CASES NOT TO LAPSE.

(Sec. 541.) Par. 22. All criminal cases, examinations or proceedings commenced in said police court before this act shall take effect, shall be tried, heard, determined or examined as if this act had not been passed.

TITLE XIX.

DOCK AND SAFETY LINES.

ESTABLISHMENT OF DOCK LINES A NECESSARY PUBLIC IMPROVEMENT.

(Sec. 550.) Par. 1. That the permanent establishment of dock, safety, sanitary and building lines along the shores and margins and in the waters and on the bed of Grand River, within the corporate limits of the city of Grand Rapids is a public necessity.

DOCK LINE LIMITS—NOT EFFECT PARTY RIGHTS TO DAM OR REDUCE SPACE FOR FLOW OF WATER—RIVER ABOVE AND BELOW, HOW SPANNED—ACQUIRING RIGHTS BY CONSENT OR CONDEMNATION PROCEEDINGS.

(Sec. 551.) Par. 2. That along so much of Grand River as lies between the north line of Fulton street bridge, a public bridge across Grand river in said city, and the center line of the Detroit, Grand Haven and Milwaukee Railway Company's bridge across said river in said city, such dock, safety, sanitary and building lines are hereby permanently established and fixed as follows, to wit:

Commencing on the east side of said river at the west face of the east abutment of said Fulton street bridge; running thence northerly on a straight line to a point located a distance of one hundred forty (140) feet measured westerly from the west line of Campau street along the south line of lot number eight (8) in Innis, McConnell, and Barnard's subdivision of lots three (3), four (4) and five (5) of block four (4) Campau plat; running thence northerly on a straight line to a point under the coping on the west face of the concrete abutment at the east end of and on the center line of the Grand Rapids & Indiana Railroad Company's bridge across said Grand River; running thence northerly on a straight line to a point which is one and sixty-five hundredths (1.65) feet west of the southwest corner of the brick wall above the foundation of the Bissell Carpet Sweeper Company's factory building; thence northerly on a straight line to a point on the center line of Bridge street bridge, a distance of twelve and two-tenths (12.2) feet east of the west face of the east abutment under the coping of said bridge; running thence northerly along the west face under the coping of the Grand Rapids Terminal Railway Company's concrete wall along said Grand River to the west face of the east abutment of the public bridge across Grand River at Sixth street; thence northerly along said railway company's wall to the north line of East Leonard street; running thence northerly along the line of said concrete wall produced to the center line of the Detroit, Grand Haven and Milwaukee Railway Company's bridge across said Grand River. And on the west side of Grand River, commencing at the center line of the Detroit, Grand Haven and Milwaukee Railway Company's bridge across said Grand River and running thence southerly on a straight line parallel with the line above described on the east side of the said river, and of the uniform distance of six hundred feet therefrom, to the north line of West

Leonard street; running thence southerly on a straight line to the center line of the public bridge across Grand River at Sixth street, at a point five hundred eighty (580) feet west of the top of the west face of the east abutment measured along the center line of said bridge; running thence southerly on a straight line to a point two hundred fifty-five (255) feet easterly from the center line of Front street measured parallel to Fourth street, and one hundred ninety-three (193) feet southerly from the center line of said Fourth street measured parallel to Front street; thence southerly on a straight line to the center line of Bridge street at a point four hundred seventy (470) feet west, measured along the center line of Bridge street, from the line above described on the east side of Grand river; thence running southerly parallel to, and of uniform distance from the line first above described on the east side of Grand River to the north side of said Fulton street bridge, all in said city of Grand Rapids.

Notwithstanding the lines above described on either side of the river cut off a portion of the dam, it is not intended hereby to give the owners thereof or other parties in interest any right, not now existing, to alter the said dam, or to reduce the space for the flow of the water of Grand River at the said dam, nor in any way to change or effect the rights of the owners of said dam and water power as they now exist; and in case of the required occupancy by the owners of the space between the abutments at either side of the said dam and the dock line herein established and for a distance of one hundred and fifty feet above and one hundred feet below said dam on both sides of the river, it must be spanned in such manner as will allow the free passage of water under it and over said dam and in accordance with the plans to be approved by the Board of Public Works: Provided, however, that before anything in this section or act shall deprive the owner or owners of rights, estates or land bordering on the waters of said Grand River, within the limits of said city, from building out beyond the lines in this section established, or in this act provided to be established, it shall be necessary and it shall be the duty of the said city of Grand Rapids, and said city of Grand Rapids is hereby authorized and empowered to procure and obtain from every such owner of rights, estates or lands within the limits of said city, bordering on said river, to be affected by the establishment and maintenance of such permanent line or lines, by purchase or written release, or by condemnation proceedings as hereinafter provided, or otherwise, the indefeasible right to the said city to maintain such line or lines permanently, together with the right to cause to be constructed, suitable stone walls on and along such part of the line or lines as are in this act hereafter more particularly described, and together with the right of constructing and maintaining by said city of public sewers as hereinafter provided.

COMMON COUNCIL TO NEGOTIATE WITH RIPARIAN LAND OWNERS.

(Sec. 552.) Par. 3. The Common Council is hereby authorized to negotiate with riparian land owners along the whole or any part of the dock lines herein fixed by this act, or any person or party interested therein, for the purchase or release of the rights of said parties to their riparian rights or interests of, in or to any section or portion of the river bed between the dock lines herein established; and if the said common council shall reach an agreement with such riparian owners, or any of the parties interested therein, it is hereby given authority to make purchase of such rights and provide for compensation for the same in the manner herein provided in the event of it being compelled to take condemnation proceedings in the Superior Court of Grand Rapids.

CONDEMNATION OF LANDS—CITY TO COMMENCE SUIT IN SUPERIOR COURT.

(Sec. 553.) Par. 4. For the purpose of obtaining such right by and on the part of said city and for the purpose of depriving the riparian owners, and all other owners of rights, estates or land, of all rights or privileges which they may have to avail themselves of any advantage, privilege or right to build out into the river beyond such permanent dock, safety, sanitary or building lines herein established, or that may hereafter be established under and by virtue of the provisions of this act, and for the purpose of securing the right and privilege on the part of the city of Grand Rapids of excavating in the bottom of Grand river at any point between the said dock lines, for the purpose of deepening the channel of said river, the said city of Grand Rapids may, as to all that portion of such lines situated between the north and south ends of the dock lines hereinbefore described, at any time after this act takes effect, institute and prosecute proceedings in the Superior Court of Grand Rapids for the purpose of taking such private property and obtaining said rights for the use or benefit of the public within the limitations of the constitution of this state, in the manner and form, except as herein otherwise provided, fixed by the statutes of the state for the taking of property for public use: Provided, that such action may at any time be taken after said act takes effect for such part or portion of said dock lines herein established as may be decided and determined by the Common Council of the city of Grand Rapids; and that thereafter when it shall be determined necessary to secure the rights of riparian owners at other points along said Grand River and within said dock lines, other and further proceedings may be taken by said city in the manner aforesaid for securing to the city the said rights and interests of riparian owners within such portion of such dock lines as the said city at such time may determine to be necessary.

PROSECUTION OF PROCEEDINGS.

(Sec. 554.) Par. 5. Such proceedings shall be commenced and prosecuted by the city in the Superior Court in accordance with the general statutes of the state for taking private property for the use and benefit of the public.

COMPENSATION TO OWNERS, ETC., FOR PROPERTY TAKEN—WHEN DOCK LINES BECOME PERMANENTLY FIXED—CITY MAY CONSTRUCT WALLS AND SEWERS.

(Sec. 555.) Par. 6. Within three months after the confirmation of the verdict of the jury, or after judgment of confirmation on appeal be affirmed, the Common Council shall set apart and cause to be provided in the treasury, unless already provided, the amount required to make compensation to the owners and persons interested for the private property taken, and rights condemned, as awarded by the jury, and shall in the resolution setting apart and providing said sum, if not already provided, direct the city treasurer to pay to the persons respectively entitled to the money so set apart and provided, to each his or her proportion, as ascertained and awarded by said verdict, and it shall be the duty of said city treasurer to securely hold said money in the treasury for the purpose of paying such awards, and pay the same to the persons entitled thereto, according to the verdict of the jury, on demand, and not pay out the money for any other purpose whatever.

The Common Council may provide the necessary amount by

borrowing from the general or contingent fund and repay the same from money raised by taxation to pay the compensation awarded by the jury, when collected, or otherwise, as it may decide. Whenever the necessary sum is actually in the treasury for such purpose the said treasurer shall make and sign duplicate certificates, verified by his oath, showing that the amount of the compensation awarded by the jury is actually in the treasury for the payment of the damages and compensation awarded in the case, giving the title of the case. He shall cause one of the certificates to be filed in the office of the clerk of said court and the other to be filed in the office of the city clerk; which certificates shall be prima facie evidence of the matters therein stated. Whenever the amount of such compensation is in the treasury and thus secured to be paid, the dock, safety, sanitary and building lines under and by virtue of such proceedings, or the right of the city if that shall be included in the proceedings to deepen the channel of Grand river between the dock lines aforesaid, shall become permanently fixed, and the said city of Grand Rapids shall have the power to cause to be constructed the masonry walls in this act provided for, or to deepen the channel of the bed of the said river between the said dock lines, in the manner in this act provided for; and the said city shall also have the power to construct and maintain public sewers as in this act provided, and from thence and thenceforth it shall be absolutely unlawful for any person or persons to construct any dock, wharf, building or structure of any kind extending over and beyond said lines, or to fill out in said river, or in any manner encroach upon said river beyond said lines so established and fixed by such proceedings, except as in this act and in the manner in this act provided. In case of resistance or refusal on the part of anyone to the Common Council, the Board of Public Works of said city, their agents or servants, entering upon and taking possession of such private property for the use and purpose for which it was taken at any time after the amount of compensation aforesaid is actually in the treasury, ready to be paid to those entitled thereto, the said Common Council by the said city attorney, may apply to the said Superior Court, and shall be entitled, on making a sufficient showing, to a writ of assistance to put them in possession of the property.

FEES FOR OFFICERS, JURORS AND WITNESSES.

(Sec. 556.) Par. 7. Officers, jurors and witnesses in any proceeding under this act shall be entitled to receive from the city the same fees and compensation as are provided by law for similar services in ordinary actions at law in the circuit courts of this state.

COSTS TO BE PAID FROM GENERAL FUND—ATTORNEY FEE.

(Sec. 557.) Par. 8. All expenses and costs of the proceedings to take and use private property under this act incurred by the city, shall be paid out of the general fund of said city, and it shall be lawful for the judge of said Superior Court in any case where he deems the circumstances justify it, to order the payment by the city to any respondent of such reasonable attorney fee as he may deem just, not exceeding twenty-five dollars, which may be taxed with the costs.

COMMON COUNCIL MAY DISCONTINUE PROCEEDINGS OR APPEAL.

(Sec. 558.) Par. 9. The Common Council shall have power to discontinue proceedings under this act after the rendition of the verdict of the jury upon the payment by the said city of the costs of said proceedings, or it may direct the city attorney to move for a new

trial or to arrest the proceedings, or to take an appeal to the Supreme Court; and in any such case the same proceedings shall be taken as hereinbefore prescribed in the case of like proceedings on the part of any respondent, except that no bond shall be required nor shall the city be required to pay the clerk of said Superior Court any fees.

EVIDENCE OF OWNERSHIP OF LAND.

(Sec. 559.) Par. 10. It shall be prima facie evidence as to who are the owners and persons interested in any property proposed to be taken or affected in the proceedings instituted under this act, if the register or deputy register of deeds of the said county shall testify in open court that he has examined the records and titles in his office and states who such records show are the owners of and persons interested in such property, and the nature and extent of such ownership and interest; and an abstract of title of such property or of any parcel or parcels thereof certified by said register or deputy register of deeds shall also be prima facie evidence as to the ownership and persons having interest in any such property, and the extent and nature of such interest.

BUILDING OF BRIDGES, ETC.

(Sec. 560.) Par. 11. After any such dock, safety, sanitary and building line shall have, as hereinbefore provided, or the right to deepen the river between the dock lines aforesaid, been established by judgment of confirmation of the verdict of the jury, or by affirmation in the Supreme Court of such judgment and the compensation, as hereinbefore provided, shall have been duly secured for the payments of the awards of the jury, or after such rights as hereinbefore provided, shall have been secured by written release and consent, it shall nevertheless be lawful and the said city shall have the right, subject to the provisions of section four of article eighteen of the constitution of this state, to erect and maintain bridges, public market places and public market bridges in, over and across the said river, beyond the lines so established; such bridges, market places and market bridges to be supported by stone or iron piers or upon iron columns and supports resting upon the river bed: Provided, that all such supporting piers and columns shall not create any greater obstruction to the waters of the river than the present piers of the present public bridges across the same in said city. And provided further, that all such supporting piers and columns shall be erected in parallel lines with the faces of the said piers of said public bridges, and shall also be in line as near as may be with each other, and shall in no case be less than forty feet apart east and west, and not less than that distance from the said walls and lines.

COUNCIL MAY REQUIRE ABUTTING PROPERTY OWNERS TO CONSTRUCT WALL.

(Sec. 561.) Par. 12. On either side of that portion of said river situate between a point one hundred feet below said dam across said river in said city and the said public bridge across said Fulton street in said city, the Common Council of said city, after the city has acquired, in the manner hereinbefore provided in this act, the right to maintain permanent lines, shall have the power and it shall be the duty of said city to require the owner or occupant of any lot, land or premises adjoining and bordering on said river between said point below said dam and said Fulton street bridge, to construct, build and

maintain a suitable stone wall on and along said dock, safety, sanitary and building lines on both sides of the river, between said points; such walls to be constructed under the direction and supervision of the said Board of Public Works, and in accordance with the plans and specifications to be by said board first prepared and approved. And said plans and specifications shall be prepared and approved by said Board of Public Works and filed for public inspection in the office of the engineer of said board within six months after said city has acquired the right to maintain the said permanent lines as aforesaid: Provided, however, that no part of said wall shall be required to be built before May 1, 1906, nor shall a wall more than four feet in height be required to be built during the first year, and thereafter said wall shall be raised in height as may be required by the Board of Public Works, as it shall deem necessary, until it shall be built to the height called for in said plans and specifications. Every such owner and occupant shall be required at his own expense to so construct such wall or walls, from time to time, on said line, in front of or adjoining his lands or premises facing or bordering on the river, and to maintain the same in good order and repair at his own expense. After said plans and specifications have been prepared, approved and filed, any owner or occupant may of his own volition, without waiting for any order or direction from the public authorities, construct the whole or any part of said wall in front of or adjoining his lands or premises in accordance with said plans and specifications.

NOTICE TO BE SERVED ON OWNERS TO BUILD WALL.

(Sec. 562.) Par. 13. Before any such owner or occupant shall be required to construct and maintain any such stone wall, he shall first be notified in writing so to do, in accordance with the plans and specifications theretofore adopted by the Board of Public Works, by notice to be served in the manner hereinafter provided, at least thirty days before he shall be required to commence such construction.

NOTICE—WHAT TO SPECIFY—DUTY OF COUNCIL IF OWNER NEGLECTS OR REFUSES TO BUILD WALL.

(Sec. 563.) Par. 14. Such notice may be written or printed or partly written and partly printed, and shall specify therein, as near as may be, the location of the portion of the wall to be constructed, the length thereof and the height and thickness and slope thereof, and shall further specify as near as may be, the material and manner and method in which the same is to be constructed, all of which shall be in accordance with the plans and specifications adopted by said board on file for public inspection in the office of the engineer of said board, and the time within which such walls or portions are to be fully completed. Such notice before the issuing thereof shall be first approved by the Board of Public Works and signed by the president and countersigned by the clerk of said board, and shall be personally served upon such respective owners or occupants by the marshal or deputy marshal of said city, within such time as the said board shall fix. If the premises be occupied and the owner be a non-resident of the city, the said marshal may serve said notice by posting up the same in a conspicuous place on the premises; and in case the said owner or occupant be absent from said premises, said notice may be served by leaving a copy of the same at his or her usual or last place of abode with some person of suitable age and discretion. If any such owner or occupant shall neglect or refuse to construct such wall or portions thereof, within the time, said board shall in such notice prescribe, it shall be lawful and it shall be the duty of the Common Council of said city to cause the same to be done under the

direction and supervision of said Board of Public Works and according to said plans and specifications, at the expense of said city, an accurate account of the expense thereof shall be kept by the said Board of Public Works, and return made to the city clerk, which said account shall be certified by the engineer of said board to be correct and filed in the office of the city clerk within ten days after said work shall be done. Said account, so certified by said engineer, shall contain a description of each parcel of real estate adjoining which said wall was built, and the expense thereof, and also the name of the owner or occupant of each parcel of said real estate, if known, and if not known, such fact shall be so stated in said account. The expense to which any tenant or occupant may be thus subjected may be collected by him from the owner of the premises, unless otherwise agreed, or unless such tenant or occupant be bound to bear such expense by the terms or nature of the agreement under which he holds his premises.

ASSESSMENT FOR MONEYS PAID FOR BUILDING WALL, ETC.

(Sec. 564.) Par. 15. And it shall be lawful for the Common Council of said city, and it shall be its duty, to direct by resolution that the Board of Assessors who are by this act constituted commissioners to make such assessment upon all owners or occupants of said abutting lands, who shall have neglected or refused to construct such part of the wall or walls as directed, for the amount of the expenses which the city was necessarily put to in the building of such wall or walls or parts thereof in front of such abutting parcels of lands on account of such default. And it shall be the duty of such commissioners to assess such amount or amounts upon such parcels of lands, but the same shall not be done until after notice to the owner or occupants who shall have a right to be heard, and also the right to appeal to the Common Council. Such notice, assessments and proceedings shall be in accordance with and under the provisions of Title VI of this charter, as near as may be, which relate to assessments for street and public improvements. After such assessments are thus made, the amounts thereof shall then become a lien upon all such parcels of land. Such lien or liens may be enforced by a sale of such lands under and in accordance with said provisions, or by suit in equity in the name of the city, to be by it begun and prosecuted to final decree in said Superior Court in accordance with the usual practice in chancery.

RIGHTS OF CITY TO INGRESS, EGRESS, AND REGRESS OVER LANDS, AND TO CONSTRUCT SEWERS THEREIN—CITY TO HAVE RIGHT TO CLEAN OR DEEPEN RIVER BED.

(Sec. 565.) Par. 16. After the said city shall have in the manner hereinbefore provided, obtained the right to maintain such permanent lines, and simultaneous with the construction of such stone walls along such lines, and to deepen the river bed between said dock lines, it shall have the right, power and authority of ingress, egress or regress over the lands of the adjacent owners or occupants adjoining or bordering upon said lines for the purpose of constructing and maintaining public sewers therein between the wall and the present banks of the river, such sewers to be constructed simultaneously, as near as may be, with the construction of such stone walls: Provided, however, That on the east side of said Grand River such right to construct such sewers shall not be exercised north of the north line of Lyon street, a public street in said city: And provided further, that on the west side of said river such power shall not be exercised north of the south line of the Grand Rapids & Indiana railroad bridge across said river in said city. The ordering of the construction of the said sewers and the construction thereof shall be under the direction of the Common Council

of said city and the Board of Public Works thereof, in the same manner, as near as may be, as is now or hereafter may be provided for the construction of public sewers in said city; and after any such sewer or sewers shall have been constructed the said city shall have all reasonable right of ingress, egress and regress over the premises of private parties through whose property such sewers run, for the purpose of keeping the same in suitable order and repair; and the said city shall also have the power and authority at all times to keep such river within the corporate limits of said city, and the river bed within said corporate limits, clean and unobstructed for the purpose of promoting the safety and health of said city and the inhabitants thereof; and shall have power and authority within the dock lines established as aforesaid to deepen the river channel or occupy or use the river bed in such manner as may be deemed to be conducive to the best interests of the city of Grand Rapids.

BOARD OF PUBLIC WORKS—POWER TO ESTABLISH DOCK, ETC., LINES.

(Sec. 566.) Par. 17. Power and authority is hereby conferred on the Board of Public Works of the city of Grand Rapids, by and with the concurrence of the Common Council, to establish dock, safety, sanitary and building lines on the shores and margin of Grand River within the corporate limits thereof and in the waters and on the bed of said river along said shores and margin southward from the said north line of said Fulton street bridge to the south boundaries of the city as they now are or hereafter may be established, and to build or cause to be built stone walls thereon under and in accordance with the provisions of this act; and north from the north limits of said city as established by an act approved March 25, 1897, northward to the north limits of said city; which said future lines, when established, either north of the lines specifically fixed in this act or south of the lines specifically fixed in this act, shall be parallel as near as may be: Provided, however, That before said Board of Public Works shall establish such future line or lines, either north or south of the lines fixed in this act, they shall give public notice thereof by publication of their intention so to do in at least two of the daily papers of said city, for a period of at least thirty days prior to the establishment of any such line or lines. And all parties interested in the establishment of any such future line or lines shall have a reasonable opportunity to be heard before said board prior to the adoption thereof by said board: And provided further, That such future line or lines shall become permanently established, proceedings shall be taken in the manner in this act provided for the taking of private property necessitated by the establishment of such lines, and the condemning of the private rights that would necessarily be condemned in the establishment of such lines. And after such proceedings shall have been had in the manner in this act provided, such lines shall become permanently fixed as the dock, safety, sanitary and building lines, north or south, as the case may be, of the lines specifically fixed by this act.

COMMON COUNCIL TO ENFORCE POWERS GRANTED BY THIS ACT BY ORDINANCES.

(Sec. 567.) Par. 18. The Common Council of said city is hereby authorized and empowered to enforce the powers hereby granted relating to the establishment of dock, safety, sanitary and building lines, by ordinances duly enacted in that regard, and may impose appropriate penalties for that purpose within the limits prescribed by the charter of said city or the provisions of this act or the ordinances and regulations of the said Common Council and said Board of Public Works in relation thereto, may be enforced at the suit of said city by a bill in equity in the said Superior Court of Grand Rapids.

GENERAL REPEALING CLAUSE OF CHARTER.

(Sec. 568.) All acts or parts of acts so far as the same are inconsistent with the provisions of this act, the same being the charter of the city of Grand Rapids, are hereby repealed: Provided, however, That all rights, interests, proceedings or actions preserved by the express language of any part or portion of this charter shall not be modified or in any manner affected by this repealing provision, and, Provided, That the act of the legislature for the years 1903 approved..... repealing the charter of the Grand Rapids Hydraulic Company, or any of its provisions shall not be affected by this repealing clause; and provided that the act of the legislature for the year 1897, approved April 24, to authorize said city to issue its bonds for the improvement of Grand River, and the so-called Superior Court Act approved March 24, 1875, and the amendments thereof shall not be affected by this repealing clause.



Margaret Jones

CHARTER

—OF—

THE CITY OF HOUSTON

HARRIS COUNTY,
...TEXAS...

As Passed by the 29th Legislature

1905

HOUSTON, TEXAS:
W. H. COYLE & CO., PRINTERS.
1905.



Harston Town

Representation: 500 voters
Franchise: wk

Mayor & 4 Aldermen = City Council
Term: 2 yrs
Salaries: Mayor £400; "entiretime"
Aldermen £200; "entiretime"



AN ACT

TO GRANT A NEW CHARTER TO THE CITY OF HOUSTON,
HARRIS COUNTY, TEXAS; REPEALING ALL LAWS
OR PARTS OF LAWS IN CONFLICT HEREWITH,
AND DECLARING AN EMERGENCY.

Be it enacted by the Legislature of the State of Texas:

ARTICLE I.

SECTION 1. CORPORATE NAME.—That all the inhabitants of the City of Houston, Harris County, Texas, as the boundaries and limits of said city are herein established, or may be hereafter established, shall be a body politic, incorporated under, and to be known by, the name and style of the "City of Houston," with such powers, rights and duties as are herein provided.

SEC. 2. BOUNDARIES.—That the boundaries and limits of said corporation shall be four miles square, to be run with the cardinal points of the compass, of which the center of the Court House Square of Harris County, in the City of Houston, shall be the center; provided, that such part of the present boundaries of the incorporated town of Houston Heights as may be included in the above description of the boundaries of the City of Houston, shall be excepted therefrom and not included in the boundaries or limits of the City of Houston.

SEC. 3. PLATTING OF PROPERTY.—That should any property lying within the city limits as established by this act be hereafter platted into blocks and lots, then and in that event the owners of said property shall plat and lay the same off to conform to the streets and lots abutting on same, and shall file with the City Engineer a correct map of same; provided, that in no case shall the City of Houston be required to pay for any of said streets at whatever date opened, but when opened by reason of the platting of said property, at whatever date platted, they shall become by such act the property of the City of Houston for use as public highways, and shall be cared for as such.

ARTICLE II.

SECTION 1. CORPORATE POWERS.—The City of Houston, made a body politic and corporate by this act, shall have perpetual succession, may use a common seal, may sue and be sued, may contract and be contracted with, implead and be impleaded in all courts and places and in all matters whatever, may take, hold, and purchase

lands as may be needed for the corporate purposes of said city, and may sell any real estate or personal property owned by it, perform and render all public services, and, when deemed expedient, may condemn property for public use, and may hold, manage and control the same; such condemnation proceedings to be governed and controlled by the law now in force in reference to the condemnation of the right of way of railroad companies and the assessment of damages therefor, and shall be subject to all the duties and obligations now pertaining to or incumbent upon said city as a corporation not in conflict with the provisions of this act, and shall enjoy all the rights, immunities, powers, privileges and franchises now possessed and enjoyed by said city and herein granted and conferred.

SEC. 2. POWERS OF ORDINANCE.—The City of Houston shall have power to enact and to enforce all ordinances necessary to protect health, life and property, and to prevent and summarily abate and remove nuisances, and to preserve and enforce the good government, order and security of the city and its inhabitants; to protect the lives, health and property of the inhabitants of said city, and to enact and enforce any and all ordinances upon any subject; provided, that no ordinance shall be enacted inconsistent with the laws of the State of Texas, or inconsistent with the provisions of this act; and, provided, further, that the specification of particular powers shall never be construed as a limitation upon the general powers herein granted; it being intended by this act to grant to and bestow upon the inhabitants of the City of Houston and the City of Houston full power of self government, and it shall have and exercise all powers of municipal government not prohibited to it by this Charter or by some general law of the State of Texas, or by the provisions of the Constitution of the State of Texas.

SEC. 3. REAL ESTATE, ETC., OWNED BY CITY.—All real estate owned in fee simple title, or held by lease, sufferance, easement or otherwise; all public buildings, market houses, school houses, fire engine stations, public squares, parks, streets, alleys, and all property of whatever kind, character and description which has been granted, donated, purchased, or otherwise acquired by the City of Houston through any means or agency, and all causes of action, choses in action, rights or privileges of every kind and character, and all property of whatsoever character or description which may have been held, and is now held, controlled or used by said City of Houston for public uses or in trust for the public shall vest in, and remain in and inure to the said corporation, the City of Houston, under this act; and all suits and pending actions to which the City of Houston heretofore was or now is a party, plaintiff or defendant, shall in no wise be affected or terminated by the provisions of this act, but shall continue unabated.

SEC. 4. STREET POWERS.—The City of Houston shall have power to lay out, establish, open, alter, widen, lower, extend, grade, narrow, care for, sell, pave, supervise, maintain and improve streets, alleys, sidewalks, squares, parks, public places and bridges, and to vacate and close the same; and to regulate the use thereof; and to require the removal from the streets and sidewalks of all obstructions, tele-

graph, telephone, street railway or other poles carrying electric wires, signs, fruit stands, showcases, and encroachments of every character upon said streets or sidewalks; and to vacate and close private ways.

SEC. 5. TO REGULATE STREET AND ELECTRIC RAILWAY COMPANIES.—The City of Houston shall have the power by ordinance or otherwise, to regulate the speed of engines, locomotives and street cars within the limits of said city; and to require steam railway companies to keep the streets over which they run properly drained, and to light the same wherever deemed necessary, and to require steam and electric railway companies to construct and keep in repair from curb to curb bridges and crossings over all the ditches, and to construct and maintain drains and culverts where crossed by any line of said railways on all streets over which they run; to direct and control the laying and construction of railroad tracks, turnouts and switches, and to regulate the grade of same, and to require them to conform to the grade of the streets of said city as they may be or are now established, and that said tracks, turnouts and switches be so constructed and laid out as to interfere as little as possible with the ordinary travel in the use of the streets.

The City of Houston shall have power by ordinance or otherwise to require steam railways using any portion of the streets of the city to pay all or any part of the paving, grading, draining and repair thereof along the street so used by such railway, and to light the same whenever and wherever deemed necessary or advisable.

Said city shall have power by ordinance or otherwise to require any street or electric railway company to pay the cost of the grading, paving, repairing or repaving or otherwise improving the street or streets or intersections thereof used or occupied by such railway company, and such cost shall be a lien upon the property and franchises of the company. The portion of the street occupied by an electric or street railway company shall be deemed to be the space between its tracks and twelve inches on the outside of each of its rails, and all the space between double tracks, turnouts and switches.

Any railroad company or street railway company proposing, with the permission of the Council, to occupy any street or streets already occupied by any such other Company, shall, besides paying for paving as may be required by the City Council, or by the provisions of this act, be required also to pay for paving between the tracks of said two roads to within twelve inches of the track of such other road, and such cost shall be a lien upon the property and franchises of the company.

Should any railroad or street railway company propose to lay a track on any street or portion of a street which shall have been improved under the provisions of this act, it shall become liable for the portion of the cost of such improvement as the City Council may direct, or as is fixed by this act.

No railroad or street railway company shall be permitted to occupy any street or portion of a street, improved or otherwise, not previously occupied by it, except with the permission of the City Council.

The City Council shall have power by ordinance to require any street car or electric railway company, or other person or corporation

operating street cars in, into or through the City of Houston, to issue to its passengers transfers from any of its lines to any other lines within the city, upon the payment by said passenger of the fare or rate prescribed for one continuous passage.

SEC. 6. TO REGULATE RATES OF PUBLIC UTILITIES.—The City Council shall have the power by ordinance to fix and regulate the price of water, gas and electric lights, and to regulate and fix the fares, tolls and charges of local telephones and exchanges; of public carriers and hacks, whether transporting passengers, freight or baggage, and generally to fix and regulate the rates, tolls or charges of all public utilities of every kind.

To fix and regulate the fares and charges of electric or street railway companies, and shall require by ordinance, under proper penalties, that any street railroad using any of the streets of the city shall for one fare give a transfer from any of its lines to any other line in the city, whether such other line be owned by it or any other company, and in addition to the penalties to be prescribed by ordinance for the failure to give transfers, shall have the right by mandamus or other proper remedy in any court of competent jurisdiction to enforce any ordinance requiring the giving of transfers by any street railroad company; and in addition thereto the City of Houston may recover of the street railway company the sum of twenty-five dollars as penalty and liquidated damages for each and every failure to give a transfer.

It shall be unlawful to continue, amend or extend any street railroad franchise, without binding any such railroad to give universal transfers, under provisions to be fixed by general ordinance.

SEC. 7. MAY OWN WATERWORKS.—The City of Houston may buy or construct, own, maintain and operate a system of waterworks, gas or electric lighting plants, street cars and sewers, and it shall be its duty to regulate, care for and dispose of sewage, waste water, surface water, offal, garbage and other refuse matter, and to make rules and regulations governing the same, and prescribe penalties for violations of said rules and regulations.

SEC. 8. FIRES.—The City of Houston shall have power to provide means for the protection against and the extinguishment of conflagrations, and for the regulation, maintenance and support of the fire department, and for the purpose of guarding against the calamity of fire, may prescribe fire limits, and may regulate or prohibit the erection, building, placing or repairing of wooden buildings within such limits in said city as may by ordinance be designated and prescribed as fire limits, and may also within said limits prohibit the moving or putting up of any wooden buildings from without said limits, and may also prohibit the removal of any wooden buildings from one place to another within said limits, and may direct and prescribe that all buildings within the limits so designated in the ordinance as fire limits shall be made or constructed of fire-proof material, the kind, character, extent and quality of which buildings and material may by ordinance be prescribed and fixed, and may prohibit the repairing of wooden buildings in fire limits when the same shall have been damaged to within fifty per cent of the value thereof,

and may prescribe the manner of finding such damages, and may declare all dilapidated buildings to be nuisances and direct the same to be repaired, removed or abated in such manner as the Council may prescribe, and may declare all wooden buildings in the fire limits which they deem dangerous to contiguous buildings, or which may cause or promote fires, to be nuisances, and may require and cause the same to be removed in such manner as may be prescribed, at the expense of the owner, and may further prescribe limits within which only a fire-proof roofing may be used, and may impose a penalty for violations of such rules and regulations.

The city shall have the right by ordinance to regulate, prescribe and govern the storage of lumber, sash, doors, blinds and any and all kinds of goods, wares and merchandise of every kind, and prescribe limits within which such materials may be carried, and fix penalties for violation of the rules and ordinances governing the same.

SEC. 9. WHARVES AND DOCKS.—Said city shall have power to establish, buy, erect, maintain, own, lease and regulate wharves and docks, charge wharfage and dockage, regulate the use of White Oak and Buffalo Bayous, and fix places for the anchorage of water craft thereon.

SEC. 10. MARKETS.—Said city shall have power to establish, lease, maintain, regulate and operate markets and market places, and abattoirs and to build, own and maintain buildings therefor, and to rent and lease the same.

SEC. 11. CHARITIES AND CORRECTIONS.—The city shall have power to establish, maintain and regulate the city prison, or city prisons, work houses, rock piles and other means of punishment for vagrants, city convicts, and disorderly persons, houses of correction and reformatories for youthful criminals, compulsory schools for children without parents, or vicious parents, or parents who wilfully and grossly neglect them, and such other places of incarceration and reformatory institutions, and such hospitals, orphanages and charitable institutions as it may deem expedient; provided, however, that no gratuity that is purely personal, and no pension shall ever be granted to any individual, and no money of the city shall be paid out except for personal services rendered, and for the other purposes specified or authorized by this act.

SEC. 12. FINES FOR VIOLATION OF ORDINANCES.—That the by-laws and ordinances of the city shall be enforced by a fine not to exceed two hundred dollars (\$200.00); provided, that no ordinance or by-law shall provide a lesser penalty than is prescribed for a like offense by the laws of the State.

The City Council may provide by ordinance for the commutation of fines imposed, by labor in a work house or on a rock pile, or upon the public streets and public ways of the City of Houston, and for the collection of any fine imposed execution may be enforced as other execution issued in civil causes.

SEC. 13. CORPORATION COURT.—There shall be a court for the trial of misdemeanor offenses known as the "Corporation Court," with such powers and duties as are defined and prescribed in an act of

the Legislature of the State of Texas, and any acts amendatory thereof, entitled, "An Act to establish and create in each of the cities, towns and villages of this State a State Court, to be known as the Corporation Court, in each city, town or village, and to prescribe the jurisdiction and organization thereof, and to abolish municipal courts"; said act having been presented to the Governor of Texas March 15th, 1899, and not having been by him disapproved.

The magistrate of said court shall be known as the "Judge of the Corporation Court," who shall be a qualified voter, and shall be appointed by the Mayor and confirmed by the City Council, and shall hold his office for two years, unless sooner removed by the Mayor and City Council, and shall receive such salary as may be fixed by ordinance.

It shall be the duty of the Mayor, as soon as practicable after the passage of this act, to nominate some suitable person to the City Council, to be by it confirmed, for the position of Judge of the Corporation Court, who shall discharge the duties of said office under the terms and provisions of the State law creating said court, and also subject to the provisions of this act.

There shall be a clerk or clerks of said court, with such deputies as may be created or provided by ordinance by the City Council, who shall be appointed by the Mayor, and shall be subject to removal at any time by the Mayor or City Council, and shall receive such salary as may be fixed by the City Council.

The clerk or clerks of said court, and the deputies thereof, shall have the power to administer oaths and affidavits, make certificates, affix the seal of said court thereto, and generally to do and perform all things and acts usually, or necessary to be performed by clerks of courts in issuing process of said courts and conducting the business thereof.

The City Council may require such clerk, clerks or deputies created by it to perform such other duties, in addition to the duties of the clerk or deputy clerk, as may be prescribed, or may provide that some other persons, in addition to other duties, may perform the duties of a clerk or deputy clerk, without extra compensation.

SEC. 14. SCHOOLS.—THE CITY OF HOUSTON AN INDEPENDENT SCHOOL DISTRICT.—The City of Houston shall constitute an independent school district, subject to the general school laws of the State, except where in conflict with this act, and the city shall have authority to levy and collect taxes and appropriate funds for the support and maintenance of the public schools within its limits.

SCHOOL TRUSTEES—HOW APPOINTED, TERMS OF OFFICE, ETC.—The trustees to constitute the school board of said city shall hereafter be appointed by the Mayor, and confirmed by the Council, but the trustees now in office shall continue to serve till the expiration of their respective terms; and all vacancies caused by death, resignation, or other cause, shall be filled by appointment in the same manner for the unexpired term. The regular term of members of the school board shall be two years, and the regular appointment of members shall be made at the first meeting of the Council in May of each year, or as soon thereafter as practicable, and the necessary number of trustees shall be appointed to take the places of those whose terms have expired.

RIGHT OF MAYOR TO VETO ANY PECUNIARY LIABILITY.—No order, resolution, or vote of the school board by which any pecuniary liability shall be incurred, or any funds expended or appropriated, shall become effective until ten days after the same is adopted, and a certified copy thereof furnished to the Mayor, and the Mayor may at any time during said period veto the same by filing his objections thereto in writing with the secretary of the school board, who shall enter the objections at large upon the minutes of the board; said order, resolution or vote shall become void, unless at the next meeting of the board it shall again be adopted over the veto by the affirmative votes of at least five members, whose names shall be entered upon the minutes of the board.

CITY TREASURER CUSTODIAN OF FUNDS.—The custodian of other city funds, as provided by this act, shall be the custodian of all public school funds upon the same terms and conditions as other funds, and his bond shall cover said school funds.

HOW FUNDS ARE TO BE PAID OUT.—No school funds shall be paid out except upon pay rolls or warrants signed by the president of the school board and the Mayor of the city, and countersigned by the City Controller.

DUTY OF SCHOOL BOARD TO MAKE FINANCIAL STATEMENTS.—It shall be the duty of the school board to make such financial statements or reports as may be requested by the Mayor or the City Council, and the Mayor or Council may make or cause to be made all such investigations as to the expenditures of funds or the conduct of the schools as either may deem proper.

MEMBERS OF SCHOOL BOARD NOT TO RECEIVE ANY PAY, OR TO BE INTERESTED IN ANY CONTRACT, OR TO BUY OR SELL ANY SCHOOL WARRANTS, ETC.—No member of the school board shall receive any compensation for his services in any capacity whatever, nor be interested directly or indirectly in any contract with, or claim or demand of any character against the school board of the City of Houston. Any such contract, claim, or demand shall be void, and any member of said board who shall become interested in any such contract, claim or demand, or shall buy or sell any school warrants or obligations of said board, and shall have any interest in any claims or obligations of said school board, shall be subject to removal by the City Council.

SEC. 15. BURIAL GROUNDS, CREMATORIES AND CEMETERIES.—The City Council shall have power to regulate burial grounds, crematories and cemeteries, and to prohibit burial within the city limits if deemed advisable, or if necessary to protect the public health, and to condemn and close burial grounds and cemeteries in the thickly settled portions of the city, and, when demanded by the public interest or public health, to remove or cause to be removed bodies interred in such condemned and closed cemeteries and burial grounds, and shall cause them to be re-interred in a suitable place to be provided by the city, at its expense, and whenever advisable, the city may condemn the land proposed to be used for the re-interring of bodies in the same manner as in condemnation suits of

railway companies, and use such condemned ground formerly used for cemeteries, for such purposes as may best subserve the interests of the city.

The City Council shall have power and authority to make all needful and necessary regulations in regard to butchers and persons selling meats, farm products, fish, vegetables and fruit, and all food stuffs, and to require the same to be inspected and condemned if not found wholesome, and to provide penalties for violation thereof.

The City Council shall have the right and power by ordinance to provide that the tenant or owner of any property shall pay to the city such reasonable charges for the removal of night soil or other refuse matter from the closets of the premises thereof, and to prohibit anyone except someone in the employ of the city, or by the city authorized to do so, from removing or carrying away the contents of any privy, vault or water closet, or any receptacle of human excrement, and the city shall have the right to have inspected the premises of all persons at any time in the interest of the public health, and for the purpose of making said inspection, the officers or agents of the city duly authorized to do so, shall have a right to enter upon the premises of any person at any hour during the day time to make said inspection. Whenever notice is given by any officer or employe of the city inspecting any premises that said premises need cleaning, the said night soil or other refuse matter shall be removed, and the owner or tenant of said premises shall pay the city the price prescribed therefor, and failure to do so shall subject said persons to the penalties to be prescribed by ordinance, and said persons shall be fined, upon conviction in the Corporation Court, in any sum not less than one dollar nor more than two hundred dollars.

To prevent any person from bringing, depositing or having within the limits of said city any dead carcasses or any offensive or unwholesome substances or matters, and to require the removal or destruction by any person who shall have placed upon or near his premises or elsewhere any substance or matter, filth or unsound beef, pork or fish, or hides and skins of any kind, and on his default, to authorize the removal or destruction thereof by some officer or employe of the city, and to require the owner of any dead animal to remove same to such place as may be designated.

The City Council shall also have the power to pass ordinances authorizing the destroying of clothing, bedding, furniture and buildings infected with the germs of any infectious or dangerous disease, when in the discretion of the City Council the public health requires the destruction of the same, and may also in the same manner authorize the destruction or removal of buildings or other objects, after the same shall have been declared a nuisance and to be dangerous to the health or lives of the citizens of said city.

That said corporation of the City of Houston is hereby given full power and authority to take such steps to improve and preserve the purity of the water in Buffalo Bayou, above the City of Houston, as it may think necessary; provided, that the power in this section shall not be construed to give said corporation any jurisdiction or control over said Bayou beyond the corporate limits of said city, except for the purpose of protecting or improving the water shed, i. e., the water

supply of both Buffalo Bayou and the smaller streams or tributaries; provided, further, that the said corporation shall have the right to condemn land, buildings and outhouses or closets when they may deem same necessary for the protection and preservation of the purity of the water in said Bayou, and shall have such police powers as to control the same.

The City Council shall also have power to require any persons or corporations owning or operating manufacturing enterprises within or without the city, which discharges refuse matter into Buffalo or White Oak Bayous, or the tributaries of either, to make other provision for such refuse matter, or so purify the same as that the public health will be fully protected.

SEC. 16. PEACE AND GOOD ORDER.—The City of Houston shall have power by ordinance duly passed to establish and maintain the city Police Department, prescribe the duties of policemen and regulate their conduct.

To permit, forbid or regulate theatres, balls, dance houses and other public amusements, and to suppress the same whenever the preservation of order, tranquility, public safety or good morals may demand.

To regulate dram shops, drinking saloons and other places where intoxicating liquors are sold, and to close variety theatres when necessary, expedient or advisable.

To prohibit and punish keepers and inmates of bawdy houses and variety shows; to prevent and suppress assignation houses and houses of ill fame, and to regulate, colonize and segregate the same, and to determine such inmates and keepers to be vagrants, and provide for the punishment of such persons.

To inspect weights and measures, fix standards of weights and measures, and to fix penalties for not using or conforming to the same, and to provide that inspection fees may be fixed by ordinance.

To make all needful and proper regulations concerning keepers of taverns and grog shops and other public houses, draymen, horse drivers, water carriers, omnibus drivers, hack drivers and drivers of baggage wagons, and other vehicles, and especially to preserve order and prevent noise and confusion in and about the several depots on the arrival and departure of railway trains, and to provide how and where hacks or other carriers shall stand or take their position upon the streets adjacent or near to said depots.

To prevent extortion by carriers of passengers or baggage, hack, drays and public conveyances, by establishing maximum rates of charges and providing penalties for violation thereof.

To provide and fix by ordinance public stands where hacks and drays, baggage wagons or other public carriers shall stand on the streets of said city for the purpose of soliciting business, and to prescribe that they shall not stand, except when receiving or discharging passengers or freight at any points other than those designated in the ordinance as public stands.

To suppress gambling houses, and to punish keepers of gambling

houses and pool sellers, and all persons who play cards or games of chance of any kind, and to punish persons who sell lottery tickets or who advertise lottery drawings or schemes and results of drawings or lotteries.

To provide for the regulation of bakers and to prescribe the weight, quality and price for bread manufactured or sold in the City of Houston, according to the price of the material or otherwise, and to provide for the inspection of milch cattle, whether kept within the city or without the city limits, from which milk is sold within the city, and to provide for the inspection of the milk offered for sale, and to prescribe the fees to be charged therefor.

To establish and regulate public pounds and to regulate and restrain and prohibit the running at large of horses, mules, cattle, sheep, swine, goats, geese and pigeons, and to authorize the distraining, impounding and sale of the same for the cost of the proceedings and the penalty incurred, and to order their destruction when they cannot be sold, and to impose penalties upon the owners thereof for the violation of any ordinances regulating or prohibiting the same.

To tax, regulate, restrain and prohibit the running at large of dogs, and authorize their destruction when at large contrary to ordinance, and to impose penalties on the owners or keepers thereof.

To prohibit and restrain or regulate the rolling of hoops; the flying of kites and firing of fire crackers; the use of velocipedes and bicycles, and the use of any pyrotechnic or any other amusement or practices tending to annoy persons passing in the streets or sidewalks or to frighten horses and teams.

To restrain and prohibit the ringing of bells or blowing of horns, bugles and whistles, crying of goods, and all other noises, practices and performances tending to the collection of persons in the streets or sidewalks by auctioneers and others for the purpose of business, amusement or otherwise.

To prohibit mendicants, beggars or persons of infirm or maimed bodies, or suffering with diseases of any kind from soliciting alms, help or assistance upon the streets or sidewalks of said city, and to prescribe a penalty by fine for a non-observance thereof.

To prohibit and regulate the ringing of bells and blowing of whistles of railroad engines or locomotives within the city limits, and to regulate the speed thereof.

To regulate and control the driving of cattle, horses and all other animals into or through the city.

To prevent all trespasses and breaches of the peace and good order, assault and batteries, fighting, quarreling, using abusive, profane and insulting language, misdemeanors and all disorderly conduct and punish all persons thus offending.

To prevent and punish the keepers of houses in which loud or immoral theatrical representations are given, and to adopt summary measures for the removal or suppression of all such establishments.

The City Council shall have power to require, on due notice, all steam or street railway companies owning tracks within the city

limits, upon the public streets or highways of said city, which may have been or may hereafter be abandoned by said companies by non-use, to remove such tracks and to restore at their own expense the street or way upon which such abandoned track is located to the proper grade.

To prohibit, prevent and suppress horse racing, immoderate riding and driving in the streets of said city.

To regulate the use of automobiles and the speed thereof.

To prohibit and punish the abusers of animals.

To compel persons to fasten their horses or other animals attached to vehicles or otherwise hitched or standing in the streets.

To restrain and punish vagrants, mendicants, beggars and prostitutes.

To regulate and control the sale, gift, barter or exchange of cocaine, opium, morphine, and the salts thereof.

SEC. 17. FRANCHISES.—The right of control, easement, user and the ownership of and title to the streets, highways, public thoroughfares and property of the City of Houston, its avenues, parks, bridges, and all other public places and property are hereby declared to be inalienable, except by ordinance duly passed by a majority of all the members of the City Council and approved by the Mayor; and no grant of any franchise, or lease, or right to use the same, either on, along, through, across, under or over the same by any private corporation, association or individual, shall be granted by the City Council, unless submitted to the vote of the legally qualified voters of said city, for a longer period than thirty years; provided, however, that whenever application is made for any grant of franchise, lease, right or privilege in or to the streets and public thoroughfares of the City of Houston by any person or corporation, if they so request, the Council shall submit the same at an election called for said purpose, the expense of which shall be borne by the applicant for said franchise, and at said election, if the majority of the votes cast by the legally qualified voters shall be in favor of making said grant as applied for, said grant may be made for such a term of years as is specified in the ordinance submitting the same at said election; provided, however, that no grant shall be made or authorized for a longer period than fifty years.

The City Council may also, upon its own motion, submit all applications or ordinances requesting the granting of franchises or special privileges in or to the streets, public thoroughfares and highways of the City of Houston, to an election, at which the people shall vote upon the propositions therein submitted; the expense of which election shall be paid by the applicant, or applicants, therefor. No such franchise shall ever be granted until it has been read in full at three regular meetings of the Council, nor shall any such franchise, grant, right or easement ever be made to any private individual, corporation or association, unless it provides for adequate compensation or consideration therefor, to be paid to the City of Houston, and in addition to any other form of compensation, grantee shall pay annually such a fixed charge as may be prescribed in the fran-

chise. Such grant under and any contract in pursuance thereof shall provide that upon the termination of the grant, the grant, as well as the property, if any, of the grantee, in the streets, avenues and other public places, shall thereupon, without other or further compensation to the grantee, or upon the payment of a fair valuation therefor (the mode of ascertaining which shall be determined in the grant), be and become the property of the City of Houston, and the grantee shall never be entitled to any payment or valuation because of any value derived from the franchise or the fact that it is or may be a going concern, duly installed and operated.

Every such grant shall make adequate provision by way of forfeiture of the grant, or otherwise, to secure efficiency of public service at reasonable rates, and to maintain the property in good order throughout the life of the grant.

The City Council may also inspect and examine, or cause to be inspected and examined at all reasonable hours, any books of account of such grantee, which books of account shall be kept and such reports made in accordance with the forms and methods prescribed by the City Council, which, as far as practicable, shall be uniform for all such grantees.

SEC. 18. REFERENDUM.—Whenever application is made to the City Council of the City of Houston for any such grant or franchise, lease or right to use the streets, public highways, thoroughfares or public property of the City of Houston, as is provided for in the preceding section of this act, or whenever an ordinance is introduced in the City Council proposing to make the grant of any franchise, lease or right to use the public highways, streets, thoroughfares and public property of the City of Houston, publication of said ordinance of such proposed grant or right to use the streets, public thoroughfares and highways of said city shall be made by publishing the ordinance as finally proposed to be passed, which shall not thereafter be changed, unless again republished, setting forth in detail all the rights, powers and privileges granted or proposed to be granted, in some daily newspaper published in the City of Houston, once a week for three consecutive weeks, which publication shall be made at the expense of the applicant or the person or persons desiring said grant, and no such grant shall be made, or ordinance passed, until after publication in the manner aforesaid, nor shall any such ordinance confirming or making any such grant, lease or right to use the streets, public highways and thoroughfares of the City of Houston take effect or become a law or contract, or vest any right in the applicants therefor, until after the expiration of thirty days after said ordinance has been duly passed by the City Council and been approved by the Mayor.

Pending the passage of any such ordinance or during the time intervening between its final passage and approval by the Mayor, and the expiration of the thirty days before which time it shall not take effect, it is hereby made the duty of the City Council to order an election, if requested so to do by written petition signed by at least five hundred legally qualified voters of said city, at which election the legally qualified voters of said city shall vote for or against the proposed grant as set forth in detail by the ordinance conferring the rights and privileges upon the applicants therefor, which said ordi-

nance shall be published at length and in full in the call for said election made by the Mayor, and if at said election the majority of the votes cast shall be for said ordinance and the making of said proposed grant, the same shall thereupon become effective; but if a majority of the votes cast at said election so held shall be against the passage of said ordinance and the making of said grant, said ordinance shall not pass, nor shall it confer any rights, powers or privileges of any kind whatever upon the applicants therefor, and it shall be the duty of the City Council, after canvassing the vote of said election to pass an ordinance repealing the ordinance which has been by it passed, if the same has been passed.

No grant of franchise, or lease or right of user, in, upon, along, through, under or over the public streets, highways or public thoroughfares of the City of Houston shall be made or given, nor shall any rights of any kind whatever be conferred upon any person, private corporation, individual or association of any kind whatever, except the same be made by ordinance duly passed by the City Council, nor shall any extension or enlargement of any rights or powers previously granted to any corporation, person or association of persons, in, upon, along, through, under or over the streets of the City of Houston be made, except in the manner and subject to all of the conditions herein provided for in this act for the making of original grants and franchises; provided, however, that the provisions of this section shall not apply to the granting of sidetrack or switch privileges to railway companies for the purpose of reaching, and affording railway connection and switch privileges to the owners or users of any industrial plants; it being the intention to permit the City Council to grant such rights or privileges to railway companies whenever in their judgment the same is expedient, necessary or advisable.

SEC. 19. **CONTRACTS FOR SERVICES.**—No contract shall ever be made which binds the city to pay for personal services to be rendered for any stated period of time; but all contracts involving a personal service shall be restricted to the doing of some particular act or thing, and upon its completion no further liability shall exist on the part of the city.

Nor shall the City of Houston or any one acting for it make any contract for supplies for the current use of any department of the municipality for a longer period than ninety days, and so far as practicable, all supplies purchased for the use of any or all of the departments of said city shall be made or let upon competing prices therefor.

No contract shall be entered into until after an appropriation has been made therefor, nor in excess of the amount appropriated, and all contracts, whenever practicable, shall be made upon specifications, and no contract shall be binding upon the city unless it has been signed by the Mayor and countersigned by the Controller, and the expense thereof charged to the proper appropriation, and whenever the contract charged to any appropriation equals the amount of said appropriation, no further contracts shall be countersigned by the Controller.

All contracts, of whatever character, pertaining to public improvement, or the maintenance of public property of said city, involving

an outlay of as much as one thousand dollars (\$1,000.00) shall be based upon specifications to be prepared and submitted to and approved by the Mayor and City Council, and after approval by the Mayor and City Council, advertisement for the proposed work, or matters embraced in said proposed contract, shall be made, inviting competitive bids for the work proposed to be done; which said advertisement shall be put in a daily newspaper not less than ten times. All bids submitted shall be sealed, shall be opened by the Mayor in the presence of a majority of the aldermen, and shall remain on file in the Mayor's office and be opened to public inspection for at least forty-eight hours before any award of said work is made to any competitive bidder. The Council shall determine the most advantageous bid for the city, and shall enter into contract with the party submitting the lowest secure bid, but shall always, in every advertisement of public work or contract involving as much as one thousand dollars (\$1,000.00), reserve the right to reject any and all bids. Pending the advertisement of the work or contract proposed, specifications therefor shall be on file in the office of the Mayor, subject to the inspection of all parties desiring to bid.

ARTICLE III.

SECTION 1. TAXATION.—The City Council shall have power, and it is hereby authorized to levy annually for general purposes and for the purpose of paying the interest and providing the sinking fund on the outstanding bonded indebtedness of the City of Houston, and for paying the interest and making provision for the sinking fund on such future bond issues as may be authorized an ad valorem tax on all real, personal and mixed property within the territorial limits of said city, and upon all franchises granted by the city to any individuals or corporations, of not exceeding a total tax of two dollars on the one hundred dollars appraised valuation of said property, except that an additional tax of not exceeding twenty-five cents on the one hundred dollars valuation may be levied on property in improvement districts for sidewalk improvements, if authorized as hereinafter provided in Section 16, Article IX; provided, however, that public property used for public purposes; actual places of religious worship; places of burial not held for private or corporate profit; all buildings used exclusively and owned by persons or associations of persons for school purposes (and the necessary furniture of all schools) and institutions of purely public charity, are hereby declared to be exempt from taxation; and provided further, that two hundred and fifty dollars (\$250.00) worth of household and kitchen furniture belonging to each family in said city shall likewise be exempt from taxation.

The City Council may also continue annually to levy and provide separately or jointly in the tax levying ordinance, for the assessment and collection of so much of the special tax provided by ordinance passed by the City Council of said city on the second day of June, A. D. 1888, as may be necessary to pay the interest on and create a sinking fund of not less than two per cent. of the indebtedness mentioned in said ordinance, but the gross total of all the taxes levied for all purposes by said City Council for any one year shall not exceed two per cent. of the appraised valuation of all property, real,

personal and mixed, in said city; provided, however, that the Council may levy a special tax in any improvement district, if any, and shall if authorized of not exceeding twenty-five cents on the one hundred dollars valuation for sidewalk improvements.

And if for any cause the City Council shall fail or neglect to pass a tax ordinance for any one year, levying taxes for that year, then, in that event, the tax levying ordinance last passed shall and will be considered in force and effect as the tax levying ordinance for the year for which the City Council failed to pass a tax levying ordinance, and the failure so to pass such ordinance for any one year shall in no wise invalidate the collection of the tax for that year.

The City Council may also determine and provide when taxes shall be due and payable by corporations or individual corporators, and all persons owning property, and prescribe penalties for the non-payment of taxes upon the expiration of the time fixed by the City Council declaring when the same shall be paid.

The City Council may also levy, assess and collect from each male citizen of the city, over the age of twenty-one and under the age of sixty years, an annual poll tax of one dollar (\$1.00); provided, however, that all persons exempt from the payment of the State poll tax under the general laws of the State, or by virtue of the Constitution, shall be exempt from the payment of the city poll tax.

SEC. 2. All real, personal and mixed property held, owned or situated in the City of Houston shall be liable for all taxes due by the owners thereof, including taxes on real estate, franchises, personal and mixed property, and poll taxes.

All personal property may be levied upon, seized and sold by the Assessor and Collector of Taxes, or such other officer as may be designated by the City Council, for any taxes that may be due by the owner thereof, without further warrant of authority than the production of his tax roll, which sale when made shall convey a *prima facie* title to the purchaser thereof; or the amount of the tax due by any person upon any species of property may be sued for in any court having jurisdiction, and a personal judgment may be recovered against any delinquent taxpayer or against any person to whom personal property on which the city tax is due has been sold, or who owns, holds or claims possession of said personal property.

SEC. 3. The tax levied by the city is hereby declared to be a lien, charge and encumbrance on the property for which the tax is due, which lien, charge and encumbrance the city is entitled to enforce and foreclose in any court having jurisdiction over the same, and the lien, charge and encumbrance on the property in favor of the city for the amount of the taxes due on such property is such as to give the State courts jurisdiction to enforce and foreclose said lien on the property on which the tax is due, not only as against any resident of this State, or person whose residence is unknown, but also against the unknown heirs of any person who owns the property on which the tax is due, and against non-residents.

All taxes upon real estate shall especially be a lien and a charge

upon the property upon which the taxes are due, which lien may be foreclosed and the tax collected by suit in any court having jurisdiction.

SEC. 4. It shall be the duty of every person owning or holding property in the City of Houston to render under oath to the Assessor and Collector of Taxes, or such other officer as may be provided for by ordinance, at his office in said city annually, within the time prescribed by the ordinances of said city, a full and complete inventory of all property so owned or held by him, whether real, personal or mixed, and to take and subscribe to an oath to the correctness of such inventory, which oath may be administered by the Assessor and Collector, or such other officer as aforesaid, acting in person or by deputy. All property, real, personal or mixed, except such as is herein expressly exempted, is subject to taxation, and the same shall be rendered and listed in the manner prescribed by the general laws of the State in regard to general taxation when applicable, unless provision is otherwise specially made therefor herein.

The definition of property and terms as defined by the general laws of the State under the head of taxation shall apply to the taxation of this city, and all property subject to taxation as prescribed by the general laws of this State, except as herein specially exempted, shall be subject to taxation by the City of Houston.

SEC. 5. The City Council shall have full power to, and may by ordinance, provide for the prompt collection of all taxes levied, assessed and due, or becoming due to said city, and to prescribe where property shall be assessed or rendered for taxes, and when the taxes thereon shall become due and payable, and to that end may and shall make such provisions as are necessary covering the levying, laying, imposing, assessing and collecting of any of said taxes, and to regulate the method and manner of making out tax lists and inventories, and the appraisement of property thereon, and to prescribe an oath that shall be administered to each person, on such rendition of the property and to fix the duties and define the power of the Assessor and Collector of Taxes, or such other officer or person as may be designated therefor by the City Council.

All taxes shall be payable at the office of the Assessor and Collector, or such other officer as the City Council may prescribe, and no demand for payment thereof shall be requisite or necessary to enforce the collection thereof by any of the proceedings herein prescribed, nor for the collection of any taxes due before the passage of this act.

All property which the owner thereof may fail or refuse to inventory, render and assess, or which the owner thereof may have failed or refused to inventory, assess and render for years prior to the passage of this act, shall be by the Assessor and Collector of Taxes, or such other officer designated by the City Council, inventoried, assessed and rendered for taxes for the year or years for which the same was not so rendered, inventoried or assessed by the owner thereof, and the Assessor and Collector, or such other officer designated by the City Council, shall have the right, and it shall be his duty at any time to revise, correct and reassess, and properly describe any property incorrectly rendered or assessed, or imperfectly described,

for any year, without the necessity of giving notice to the owner thereof, provided, however, that the valuation as fixed by the Board of Appraisers shall not be changed, and such inventory and assessment when revised or corrected so made shall be as valid and effective as if on the assessment sheets or tax rolls, and as if regularly and duly rendered and assessed by the owner thereof for the year for which rendered, assessed and inventoried as above provided by the Assessor and Collector of Taxes, or such other officer as may be designated by the City Council, and said tax rolls and assessment sheets shall be *prima facie* evidence that said property was regularly and duly rendered, inventoried and assessed and properly described in all respects as if done duly and regularly by the owner in the first instance; provided, however, that if such assessment sheets or tax rolls are vague or indefinite, the City of Houston may show by evidence other than the assessment rolls and tax rolls where the property is located, and on what property the tax is due; who owns the property, and that the taxes on the same are due and unpaid, and shall enforce and foreclose the tax lien on such property, as herein provided.

SEC. 6. That all ad valorem taxes due or becoming due upon real, personal and mixed property, and upon franchises granted by the City of Houston to individuals or corporations, and all license taxes and occupation taxes, and all fines, forfeitures, penalties and other dues or taxes accruing to the City of Houston shall be collectible and payable only in current money or current funds of the United States.

SEC. 7. That the City Council shall have the power to assess, license and tax hawkers, peddlers, auctioneers, theatrical and other exhibitions, shows and amusements, circuses, billiard tables, nine and ten pin alleys; alleys with any number of pins, public drays, wagons, omnibuses, carriages and automobiles, grog shops and dram shops, beer saloons, whether for the sale of domestic intoxicants or otherwise, and such other trades or occupations not specifically mentioned herein, as are, or may be, taxed or licensed by the laws of this State, but no assessment or license tax levied under this section shall exceed one-half of the amount levied by the State for the same period on such trade, profession or occupation, and the same may be regulated, levied and collected in the same manner as said taxes are regulated and collected by the State of Texas.

That all license taxes or occupation taxes shall be paid to the Assessor and Collector of Taxes, or other officer designated therefor by the City Council, by each and every person or firm engaging in any trade, profession, business, calling, avocation or occupation, before engaging therein, and shall take his receipt therefor, which receipt shall be esteemed lawful license for the pursuit of the occupation indicated, and if any person shall engage in any business, calling, avocation or occupation, trade or profession, which by ordinance of said city is subject to a license or occupation tax, without first having obtained said license or occupation tax, he, she or they shall be liable to arrest, imprisonment and a fine to be fixed by ordinance for each and every day such violation of said ordinance may continue,

and each day shall constitute a separate offense, and this section shall apply to all persons owing license and failing to pay the same, and the City Council may make such further regulations as it deems necessary to enforce this provision and punish persons violating the same.

SEC. 8. All taxes due by property owners on any and all property for the year 1875, up to and including the year 1904, and for all years intervening, and for all years thereafter, until otherwise provided by charter, as appears upon the tax rolls of said city, may be collected by suit from delinquents and foreclosure of the lien thereon may be had in any court having jurisdiction of the same, and any person who shall purchase or shall have purchased property encumbered with a lien for taxes, or upon which taxes are due, shall be deemed as to such taxes a delinquent taxpayer, and such purchaser takes the property charged with the lien, and he cannot interpose any defense which his vendor might not have interposed had he continued to be the owner, except that no personal judgment shall be rendered for same against said purchaser; provided, however, that any delinquent taxpayer shall have the right to plead in any court and to rely as a defense upon the statute of limitation of four years in any suit brought for taxes alleged to be due the City of Houston, and in no case wherein such limitation is plead and the taxes sued for, or any part thereof, are shown to have been due and payable for four years or more before said suit was instituted, shall judgment be rendered for such taxes so shown to have been due for more than four years; provided further, however, that the defense of limitation shall not apply to any suit which may within one year after the passage of this act be instituted by the City of Houston for the collection of any taxes due for any year from 1875 up to and including the year 1901, nor shall it apply in any case wherein the sale of any property delinquent for taxes has been made under the provisions of this act, nor if such sales shall be made within one year after this act takes effect.

It shall be the duty of the City of Houston, within one year after this act goes into effect, to cause suit to be filed for the collection of all back taxes which have accrued to said city and are due and unpaid for the year 1875, and for each and every year, or any and all years intervening, up to and inclusive of the year 1901, and after the expiration of one year from the time this charter goes into effect no suit shall be instituted, nor shall any sale of property be made by the City of Houston or its officers for any taxes which have become due and payable for more than four years prior to the filing of said suit, or the sale of said property by the proper officer of said city as provided for in this article. And it shall be the duty of the City Council to pass an ordinance imposing a fine of two hundred dollars upon such person as is or may be employed by said Council to collect said taxes, who fails to use due diligence in the collection of all such taxes, and such persons so failing to do so, shall at once be discharged from the service of the city, and each and every failure shall be a separate offense and subject the person to such fine for each failure or separate offense.

The City of Houston is hereby expressly authorized to, and has the right to maintain a suit to recover a personal judgment for the

amount of any tax due it, accruing from any species of property taxed by it, as well as for license and occupation taxes, and the tax may be collected by sale of the particular property on which it is assessed, by enforcing the lien or by the sale of all or other property under a judgment of court, or by seizure and sale of personal property; provided, that when any action is instituted against any person to recover taxes due the city, all the taxes due such person or persons upon any piece, lot or parcel of property, real or personal, shall be embraced in one suit, whenever the same is legal and practical, and when the same can be done and is not done subsequent to the passage of this act, all taxes for years antecedent to those for which the taxes are alleged to be due, shall be conclusively presumed to have been paid. And where two or more actions are brought subsequent to the passage of this act, and all the taxes due might legally be or have been embraced in one action, the court shall, on motion of the defendant, or of its own motion, consolidate said action, and when same is done, the costs shall be paid as in only one action.

In suits for taxes, the proper persons shall be made parties defendant in such suits, shall be served with process and other proceedings had therein, as provided by law for suits of like character in the District Courts of this State; and in case of foreclosure, an order of sale shall issue and the land be sold thereunder, as in other cases of foreclosure, which order of sale shall have all the force and effect of a writ of possession between the parties to the suit and any person claiming under the defendant by any right acquired after the filing of the suit; and the Sheriff or other officer executing such order of sale shall proceed by virtue of the same to place the purchaser of the property sold under such order of sale in possession thereof within twenty days, as provided by the general laws of Texas, after date of sale, but not before, and such order of sale may direct that the Sheriff or other officer executing such order of sale shall sell the property, either each piece separately, as under execution, or in gross, as the city, through its attorney, may direct; or if the defendant or his attorney shall, at any time before the sale, file, with the Sheriff or other officer in whose hands any such order of sale shall be placed, a written request that the property described therein shall be divided and sold in less tract than the whole, together with the description of said subdivisions, then such officer shall sell the land in said subdivisions, as the defendant may request, and in such case shall only sell as many subdivisions as will satisfy the judgment, the court costs, and all other costs hereinafter specified.

In all cases in which lands have been sold for default in the payment of the taxes, it shall be lawful for the Sheriff or other officer selling the same, or any of his successors in office, to make a deed or deeds to the purchaser, or to any person to whom the purchaser may direct the deed to be made, and such deed shall be held in all courts of law or equity in the State to vest a good and perfect title in the purchaser thereof.

The City Attorney or other officer designated therefor by the City Council shall represent the city in all suits against delinquent taxpayers, and in any and all suits by the City of Houston for the collection of the taxes due it there shall be charged in the cost bill in said case when judgment is rendered for the city, five per cent. upon

the amount of the judgment so rendered in said cause, which amount shall be taxed as cost against the property upon which the tax is due and unpaid to the city, and in no case after suit has been filed shall a receipt for taxes be given on the property in suit until after the payment of five per cent. attorney's fees as above provided, the cost of the City Assessor and Collector, or such other officer as herein stated, and all court costs.

When judgment has been taken for taxes due on the property in suit, the five per cent. attorney's fees and other costs above named shall be taxed as costs against the property to be sold under judgment for taxes, and paid out of the proceeds of the sale of the same, together with the taxes and interest due thereon to the city, and the five per cent. taxed as attorney's fees shall be paid to the city.

SEC. 9. For the taxes due on any property for any and all years, for and including the year 1875, up to and including the year 1904, and for all years intervening, and for all years after the year 1904, until otherwise provided by charter, either the tax rolls or a statement of the taxes due on any property made from said rolls certified to and signed by the City Assessor and Collector of Taxes of the City of Houston, or such other officer or employe as the City Council may designate, shall be *prima facie* evidence that the tax on the property is due; that the facts stated therein are true, and that all the prerequisites required by law pertaining to the levying and assessing of taxes and the rendition of the property therefor on which the suit is brought for the taxes due have been complied with.

In addition to the tax rolls and the certified statement from the said tax rolls being *prima facie* evidence, as above stipulated, the deed or deeds executed by the Assessor and Collector of Taxes and made by him during the years 1890, 1891, 1892, 1893 and 1894, showing the sales made by him for said years of the property upon which the taxes are due, in accordance with the provisions of the charter of the City of Houston in force during the last named years, shall also be *prima facie* evidence that the tax on the property is due and unpaid; that the facts stated in said deed are true, and that all of the prerequisites and requirements of the law were and have been complied with.

SEC. 10. All taxes for any current year, except occupation tax and license tax, are hereby declared to become due and payable on the first day of each and every current year, and if not paid by the thirty-first day of December following a penalty of ten per cent. upon amount of the tax due shall be added and paid, and interest shall be charged upon the gross amount of the tax and penalty due until paid, at the rate of six per cent. per annum, and in no case shall the City Council or any number of the City Council, or any other officer of the city extend the time for the payment of the taxes, nor shall any officer of the city remit, discount, or compromise any tax legally due the city, nor shall any person be elected Mayor or Alderman of the City of Houston or hold any position, office or employment thereunder who is in arrears, or due and owing to the City of Houston any sum of money for taxes or otherwise.

SEC. 11. The provision for suit to foreclose the tax lien herein created is but auxiliary to, and cumulative of the city's right to sell

property delinquent for taxes without suit, as is hereafter provided. After said tax statements have been made out by the Assessor and Collector, or other officer designated therefor by the City Council, and after publication thereof as is herein specified in this article, it shall be the duty of the Assessor and Collector of Taxes of the City of Houston, or such other officer as may be provided for by ordinance, to give notice by publication made in a newspaper published in the City of Houston and having a general circulation therein, which publication shall be made at least once a week for three consecutive weeks immediately preceding the sale, that he will sell at public outcry in the City of Houston at such place as is designated in said notice each and every piece of property delinquent to the City of Houston for taxes at the time of said sale. Said property shall be sold by separate sales or tracts to the highest bidder at said sale, but the right is hereby reserved to the City Council to confirm or refuse to confirm said sales which shall be reported to it within three days thereafter, and if said sales so made are not confirmed by the City Council, the money so paid to the Assessor and Collector shall be by him refunded to the purchaser at said sale. Said sales may continue from day to day until all of the property so delinquent for taxes shall have been sold. The said Tax Assessor and Collector, or such other officer as may be designated by the City Council, shall, after said sale is made, make a deed to the purchaser thereof, if sale is confirmed by the City Council, and in such deed he shall recite the fact of the delinquency of the tax, the amount of the tax due, the year or years for which due, the property against which the tax is assessed, the fact of the publication of the delinquent tax roll as is herein set out, the fact of the publication of the notice of sale, the amount bid, and the name of the purchaser. Such deed shall constitute a *prima facie* title to the property therein described, and said deed shall be *prima facie* evidence of the truth of all things therein recited, and the holder of said deed shall be considered the holder of a *prima facie* legal title to said land against all persons whomsoever, and such deeds, when so executed for property sold as specified at said sales, shall pass to the purchaser all of the interest and title of the owner thereof, subject to redemption at any time within two years from the date of said sale, upon payment by the owner of the property so sold to the purchaser thereof, of double the amount of taxes, penalties and costs due on said property; provided that should such sale be for any reason held invalid, the purchaser thereof shall nevertheless have a good and valid lien upon the property so sold for the amount of the taxes due thereon, and such purchaser shall be subrogated to all of the rights of the City of Houston, and shall have the right to foreclose such lien in any court of competent jurisdiction within four years from the date of such sale.

The City of Houston may bid at such sales, and may become the purchaser of any property sold thereat to the extent of the amount of the taxes, interest, penalties and costs due on any particular piece of property, and the city shall further have the right, if said deed shall for any reason be invalid, to maintain a suit to foreclose its tax lien on said property for the amount of taxes due thereon, at any time.

A failure on the part of the City Assessor and Collector of Taxes,

or such other officer or employe as may be designated by the City Council to prepare the delinquent tax roll, or to publish it for the required length of time, or to furnish tax statements to the City Attorney, or a failure on the part of the city to file suits within the proper time for the collection of taxes due, shall in no wise affect the liability of the delinquent taxpayer, nor shall it release the property upon which the tax is due from the operation of the lien, charge or incumbrance herein created, nor shall such failure of any officer or employe of the city in any manner or matter be relied on by way of defense, or be a defense against the payment or the enforcement of the payment by suit or otherwise of the taxes due the city.

In cases where the State has instituted suit for taxes and where taxes are due the city on the same property for the same or other years, the city may have the right to intervene in said suit and have judgment for its taxes to foreclose its lien for said taxes, and in cases where the city has first instituted suit for taxes, the State may have the same right to intervene with foreclosure of its lien.

SEC. 12. Immediately after the first day of January in every year, it shall be the duty of the Assessor and Collector of Taxes, or such other officer or employe as may be designated by the City Council, to prepare a roll containing a description of all property described in the assessment rolls of the year just preceded, that is to say, the year ending on the thirty-first day of December preceeding on which the taxes have not been paid. Said roll shall be called the DELINQUENT ROLL, and shall consist of so much of the said roll as will identify the property and show the amount of the tax due on the same. During the time that the City Assessor and Collector, or such other officer or employe of the city as may be designated by the City Council, shall be preparing and shall prepare the delinquent roll above described, he shall prepare separate statements of tax accounts due the city, to be furnished the City Attorney or other officer designated by the City Council, which statements shall contain a description of the property, the year for which the tax is due, the amount of the tax due, the rate of taxation, and the person or persons, estate, firm or corporation who assesses the same, and whether the property is rendered or unrendered, or owner unknown, as appears on the tax roll, which statement the City Assessor and Collector, or such other officer or employe as may be designated by the City Council, shall certify to be correct, and which shall be *prima facie* evidence of the statement made therein, and that all the prerequisites and requirements of the law as to levying taxes and assessing and rendering property therefor, and as to all matters have been complied with, and the city shall be entitled to one dollar on each statement so made, which shall be taxed against the delinquent taxpayer of the property and against the property on which the tax is due, and in case of suit, to be taxed as a charge against the property, and the Assessor and Collector of Taxes, or other officer designated by the City Council, shall not issue any receipts to any delinquent taxpayer until said one dollar has been paid, except upon express written authorization in each individual instance by the City Council; provided, that when separate tracts of land and different kinds of property are assessed by the same person, firm, estate or corporation, that they shall be contained in the same statement. Said delinquent roll shall be fin-

ished and said statement furnished by the Assessor and Collector, or other officer, not later than the last day of February of each year.

Said delinquent roll shall be published during the month of March following, or as soon thereafter as practicable, once a week for four consecutive weeks, in some newspaper published in the City of Houston, and the Assessor and Collector, or other officer or employe designated by the City Council, shall also be entitled to charge two dollars for advertising each tract of land separately assessed, which shall be taxed as a charge against the property on which the tax is due, and paid into the treasury of the City of Houston, and the Assessor and Collector, or such other officer or employe as may be designated by the City Council, shall not issue any receipt to any delinquent taxpayer until the cost of advertising has been paid, unless upon the express authorization to do so by the City Council, which authorization shall be made in writing in each individual instance, and a failure to comply with these provisions by the Assessor and Collector of Taxes, or such other officer or employe as may be designated by the City Council, shall be deemed a malfeasance in office, and such officer shall be removed.

It shall be the duty of the Assessor and Collector of Taxes or other officer or employe as may be designated by the City Council, whenever written request is filed with him by the owner or agent of any particular piece of property for a statement of all taxes due on said piece of property to give to said person a written statement of all taxes due thereon for each and every year from and after the year 1875 up to and including the year for which the taxes are last due, and any person who pays the taxes due on said property upon the statement so rendered, if duly certified to by the Assessor and Collector as being all the taxes due thereon shall not thereafter be required to pay, but shall be relieved from payment of any taxes due or claimed to be due on said property for any years prior to the time of filing said written request for a full statement of all the taxes due on said property.

SEC. 13. The City Council may by resolution provide for advance payment, and may allow interest upon advance payment of taxes, at a rate not to exceed six per cent. per annum for the time intervening between the time of such payment and the time of the last payment, without interest or penalties, namely, the thirty-first day of December of each year; provided, that no such resolution shall be passed, nor such interest allowed, except for the purpose of raising money to meet the current expenses of the city for legitimate purposes. Such resolution shall state the amount of money sought to be raised by this means, and when said amount has been received, the Assessor and Collector, or such other officer or employe designated by the City Council, shall immediately notify the Mayor and City Council that the amount called for in the resolution has been received, and no one shall by authorization of the City Council, nor shall the City Council, pay interest on moneys subsequently paid in for taxes for that year. In receiving moneys for taxes in advance, under the resolution herein provided for, the Assessor and Collector, or other officer or employe designated by the City Council, shall allow the taxpayer to retain out of such payment the amount of the interest allowed

thereon, and shall give his receipt for the whole amount, showing what amount is actually paid in, and what sum is allowed as interest on such payment.

SEC. 14. Any and all descriptions of real estate, blocks, outlots, lots, or any parts or fractions thereof, and of all personal property, and any and all dates, years, valuations, taxations, numbers, quantities or amounts contained in any assessment roll or sheet, land tax book, personal tax book, or descriptions contained in any book or roll for the purposes of assessing property, shall be sufficient and valid when made or stated in whole or part, in abbreviations or contractions of words, letters, characters or figures; and when so made or stated shall be deemed and held to be fully and fairly made and stated as though the same had been written out in full. No error or irregularity in any assessment roll, tax book, or other document relating to the levy, assessment, equalization or collection of the taxes of the city shall in any manner affect or impair the validity of any tax, or affect the proceedings for the collection thereof; but every such assessment shall be liberally construed to effect the purposes and objects of this article in determining the validity thereof.

SEC. 15. BOARD OF APPRAISEMENT.—There shall be a Board of Appraisement in said city, which shall be composed of two Aldermen and the Assessor and Collector of Taxes, or such officer or employee designated by the City Council to perform the duties of an Assessor and Collector of Taxes.

The two aldermanic members of said board shall be appointed by the Mayor not later than the first day of May of each year, and said board shall as soon as possible after the completion of all or any one of the Assessment rolls by the Assessor and Collector, or other person designated therefor by the City Council, meet and carefully examine said roll or rolls, and properly and equitably adjust and equalize the taxable values thereon, thus continuing until they have adjusted and equalized the valuation on all property on said rolls, under such regulations as may be prescribed by the City Council by ordinance, and after the completion of said work, said board shall make due report of its action to the City Council.

Said board, constituted as herein provided, shall continue for a period of one year, and shall be a standing committee to which all matters relative to taxes shall be referred. The members of said board shall not receive any further compensation or extra compensation by reason of their services as members of said Board of Appraisement, nor as members of said standing committee on taxes.

In case of dissatisfaction with the decision of said Board of Appraisement by any taxpayer, an appeal from the decision of said Board of Appraisement may be had to the City Council of the City of Houston, but such appeal must be by written petition, specifically stating the things complained of, and by the dissatisfied taxpayer be filed with the City Secretary before the expiration of thirty days after said board has finally examined and passed upon the delinquent rolls of said city and made its final report to the Mayor and City Council, as herein provided. The decision of the City Council in all cases

of appeal from the decision of the Board of Appraisement shall be final and binding, and no appeal shall be allowed from the decision of the City Council.

Said Board of Appraisement shall finish and conclude its labors within not less than sixty days, and in no event shall it file its final report with the Mayor and City Council later than the fifteenth day of June of each year.

It shall be the duty of the Board of Appraisement to mail a postal card to each property owner, the valuation of whose property the board proposes to raise or increase, notifying him to appear before it and show cause why said valuation should not be increased as proposed, but the failure on the part of any property owner whose property may be increased in value by the Board of Appraisement to receive written notice of the proposed increase, shall in no wise invalidate or affect the action of said Board of Appraisement in increasing the valuation of said property, but it shall be presumed that the notice was sent as provided for herein.

ARTICLE IV.

SECTION 1. AUTHORITY TO ISSUE BONDS.—The City Council shall have the power and authority by ordinance duly passed, if it so elects, to borrow money on the credit of the city for permanent improvements, to an amount not to exceed one hundred thousand dollars (\$100,000.00) in any one year, and may issue bonds of the city therefor. It may also have the power, and is hereby expressly authorized to issue bonds for the purpose of refunding bonds of the city of previous issues; provided, the bonds may be refunded at a lower rate of interest than the bonds proposed to be retired draw.

No bonds shall be issued for any purpose except for the purpose of making permanent improvements, which shall not exceed one hundred thousand dollars (\$100,000.00) in any one year, and for the purpose of refunding bonds of the city of previous issues, unless an election be duly ordered by the Mayor and City Council, and if at said election a majority of the vote polled shall be in favor of creating such debt, it shall be lawful for the City Council to make the issuance of bonds as proposed in the ordinance submitting the same at the election so held, but if a majority of the vote polled shall be against the creating of such debt, it shall be unlawful for the City Council to issue the bonds.

In all elections to determine the expenditure of money for the assumption of debt, only those shall be qualified to vote who pay taxes on property in said city, and are legally qualified voters in said City of Houston; provided, that no poll tax for the payment of debts thus incurred shall be levied upon the persons debarred from voting in relation thereto.

No bonds shall be issued drawing more than five per cent. interest per annum, and they shall be invalid if sold for less than par and accrued interest, and all bonds shall express upon their face the purpose for which they are issued.

The ordinance authorizing any bonds to be issued shall provide for the creation of a sinking fund sufficient to pay the bonds at maturity, and make provision for the payment of the interest thereon as it matures, and said sinking fund shall be invested in bonds of the State of Texas, or in the bonds issued by counties in the State of Texas, or in bonds of the United States, or such funds may be used for the purchase of the bonds of the City of Houston which are not yet due, and neither interest nor sinking fund shall be devoted to any other purpose whatsoever.

Any officer of the city who shall wilfully or knowingly divert or use said fund for any other purpose except that for which the fund is created, or herein expressly authorized to be invested, shall be deemed guilty of a felony, and subject to prosecution as provided under the general laws of the State for the diversion and conversion of funds belonging to any of the municipalities of said State.

SEC. 2. BAYOU.—Power is hereby given the City Council of the City of Houston to secure land between Houston and Harrisburg, along the banks of Buffalo Bayou, by purchase, condemnation or by gift, for the improvement of Buffalo Bayou by the United States, or by the City of Houston and for this purpose it may by ordinance extend the corporate limits of said city from its present eastern limits eastwardly in a general direction with Buffalo Bayou, from bank to bank, as same is now constructed, or exists, or as same may be ordered constructed by the government engineers in charge of said work, provided that the city shall have no right to tax the property over which such boundaries are so extended, unless such property be within the line and within the limits of the general city boundaries or limits.

To effect a condemnation, the same proceedings shall be taken and the same statutes shall govern, so far as applicable, as obtain and apply to the condemnation of lands by railway companies under the general statutes of the State of Texas.

SEC. 3. FEES.—Within its corporate limits, the City of Houston shall be the local agent of the State government for the enforcement of the State laws, in all cases wherein the Corporation Court of the City of Houston has jurisdiction, and all fines or penalties imposed by said court, including all costs incident thereto, and assessed against the parties so fined, are by this act declared to be due and owing to, and shall be payable to the City of Houston, and in all cases where fees are allowed, the officers making the arrest, or the attorneys prosecuting said causes in said Corporation Court, said fees shall be payable to, and shall hereby become due and owing to the City of Houston.

And the City of Houston shall by ordinance prescribe that no officer or employe in the service of the City of Houston shall receive any fees, rewards or perquisites accruing from any service performed in any manner whatsoever, whether authorized by the general laws of the State or otherwise, but in addition may prescribe by ordinance that said fees, which may be collectible by said officers under the State law, shall become the property of, and shall be payable to the City of Houston, and a failure on the part of any officer or employe to

collect said fees when collectible, and to pay the same over to the City of Houston, shall be deemed a malfeasance in office, and said officer shall be removed.

SEC. 4. SIDEWALKS.—The City of Houston may by appropriate penal ordinance compel the construction and laying of sidewalks by property owners in front of, or abutting on their land, or property, and may prescribe the character of such sidewalk, and the manner in which it shall be laid. Should any person or corporation owning land in the City of Houston fail or refuse to construct sidewalks in front of or abutting on their property, in accordance with the ordinance passed by the City of Houston, in addition to the penalty provided for herein, the City of Houston shall have the right to have said sidewalk constructed in accordance with such ordinance at the expense of the abutting property owner, and may recover a personal judgment in any court having jurisdiction of the amount, for the costs and expense in constructing said sidewalks, with 10 per cent. additional for attorney's fees. The Council may also, by ordinance, provide that the city shall not pave with brick, asphalt, stone or gravel, any street unless and until the owners of abutting property shall previously lay in the manner as may be prescribed by the city a curb and sidewalk thereon.

SEC. 5. VESTIBULE CARS.—The City Council may, by ordinance, duly passed, require any street car company operating its lines or cars within or into the City of Houston, to equip its cars with vestibules of such pattern and style and during such period of the year, as may be prescribed by ordinance.

The city shall also have the right and power, by ordinance duly passed, to require any street railway company operating its cars or lines within the limits of the City of Houston, to equip its cars with fenders of such style, design or pattern, as may be prescribed by the City Council, and to run closed cars in the months of December, January and February of each year.

ARTICLE V.

SECTION 1. ELECTIVE OFFICERS.—The administration of the business affairs of the City of Houston shall be conducted by a Mayor and four Aldermen, who, together, shall be known and designated as the City Council, each and all of whom shall be elected by the qualified voters of the city at large, and who shall hold their respective offices for two years from and after the next city election, or until their successors are elected and qualified, unless sooner removed, as is provided by this act; provided, however, that all of the present officers of the City of Houston, who were elected at a city election held in said city, on the fourth day of April, A. D. 1904, pursuant to the provisions of an act passed by the Twenty-eighth Legislature of the State of Texas, entitled: "An Act to provide a charter for the City of Houston, Harris County, Texas, repealing all laws or parts of laws in conflict herewith, and declaring an emergency"; except the Mayor, Aldermen and City Attorney, shall hold their respective offices, unless

sooner removed by the Mayor for cause, and receive the compensation now fixed therefor, until the expiration of two years from and after the date of their election on the fourth day of April, 1904, and qualification thereunder.

Compensation of all officers, except the Mayor and Aldermen, shall be fixed by the City Council, which may increase or diminish the same at will, or abolish entirely any office at any time, except as to the officers above mentioned, and until their two years term of office expires.

In case a primary election is held pursuant to the call or under the direction of any political party, or of any association of individuals for the nomination of candidates for the offices of Mayor and Aldermen, the candidates or persons voted for in said primary election shall be voted for at large by all of the legally qualified voters in said city, it being the purpose of this act to nominate and elect at large in said city the Mayor and Aldermen, without restricting the nomination of candidates for either position to any smaller designated territory within the limits of said city, and any primary election held for the purpose of nominating candidates who shall stand for election at a city election in said city at which said primary the candidates for Mayor and Aldermen are not voted for, as herein provided, shall be absolutely illegal, and no person so nominated at said primary election shall be eligible to election at a general election, nor shall he hold any office if elected thereto after nomination in a primary wherein the voters at large in said city did not participate in said primary election.

SEC. 2. APPOINTIVE OFFICERS.—The Mayor shall have power to appoint, subject to confirmation by the City Council, such heads of departments in the administrative service of the city as may be created by ordinance, and shall have power to appoint and remove all officers or employes in the service of the city for cause, whenever in his judgment the public interests demand or will be better subserved thereby; and no officer whose office is created by ordinance shall hold the same for any fixed term, but shall always be subject to removal by the Mayor or may be removed by the City Council. In case of such removal, if the officer or employe so removed requests it, the Mayor or City Council, as the case may be, shall file in the public archives of the city a written statement of the reason for which the removal was made.

ARTICLE VI.

SECTION 1. THE MAYOR.—The chief executive and administrative officer of the city shall be a Mayor, who shall be a citizen of the United States, a qualified voter, residing for five consecutive years immediately before his election within the city limits, and a bona fide owner of real estate for at least two years before his election, and shall hold his office for two years, and until his successor is elected and qualified, unless sooner removed as provided by this act.

SEC. 2. MAYOR PRO TEM.—At the first regular meeting of the City Council after the induction of the newly elected Mayor and Aldermen in office, the Mayor shall nominate, subject to confirmation by the City

Council, one of the Aldermen who shall be known and designated as "Mayor Pro Tem," and shall continue to hold the title and the office until the expiration of the term of office for which he was elected as Alderman, but shall receive no extra pay by reason of being or acting Mayor Pro Tem.

SEC. 3. **DISABILITY OF THE MAYOR.**—If for any reason the Mayor is absent from the city, sick or unable to perform the duties of his office, the Mayor Pro Tem shall act as Mayor, and during such absence or disability shall possess all of the powers and perform all of the duties of the Mayor, except that he shall not, independent of the City Council, appoint or remove any officer or head of any department from office, which officer or head of department was appointed by the Mayor, unless the Mayor shall be absent, or disabled for a period of at least sixty days.

SEC. 4. **VACANCY.**—In case of the death, resignation or permanent disability of the Mayor, or whenever a vacancy in the office of Mayor shall occur for any reason, the Mayor Pro Tem shall act as Mayor, and shall possess all of the rights and powers of the Mayor, and perform all of his duties, under the official title, however, of "Mayor Pro Tem" until an election is ordered by the City Council to fill the vacancy in the office of the Mayor. Said election, should a vacancy occur in the office of Mayor, shall be called by the City Council and held within thirty days thereafter, and notice by publication given for at least twenty days, as may be required by law.

SEC. 5. **REMOVAL OF THE MAYOR.**—In case of misconduct, inability or willful neglect in the performance of the duties of his office, the Mayor may be removed from office by the City Council by majority vote of all the Aldermen elected, but shall be given an opportunity to be heard in his defense, and shall have the right to have process issued to compel the attendance of witnesses, who shall be required to give testimony, if he so elects. The hearing, in case of impeachment of the Mayor, shall be public and a full and complete statement of the reasons for such removal, if he be removed, together with the findings of facts as made by the Council, shall be filed by the City Council in the public archives of the city, and shall be and become a matter of public record.

Pending the charge of impeachment against the Mayor, the City Council may suspend him from office for a period of not exceeding thirty days, and if upon final hearing the conclusions and findings of the City Council are that the Mayor be impeached and removed from office, such findings shall be final.

SEC. 6. **VETO POWER OF THE MAYOR.**—Every ordinance, resolution or motion of the City Council shall, before it takes effect, be presented to the Mayor for his approval and signature. If he approves it, he shall sign it; if he disapproves it, he shall specify his objection thereto in writing by the next regular meeting of the City Council, and return the same to the City Council, with such disapproval. If he does not return it with such disapproval, nor sign it, it shall upon the expiration of the time for its return to the City Council with his disapproval, be in effect and force, the same as if he had approved it.

The City Council may, in case of the veto of any ordinance or resolution by the Mayor, pass the same over the veto of the Mayor by a majority vote, but in all such cases the Mayor shall not be deprived of his right to vote as a member of the City Council by reason of the veto. In case the Mayor's veto is sustained, the matter shall not again come before the Council within six months, but in ordinances or resolutions making appropriations, the Mayor may veto any or every item therein, but such veto shall only extend to the items so vetoed, and those which he approves shall become effective, and those which he disapproves shall not become effective, unless passed over his veto in the manner above specified.

SEC. 7. GENERAL POWERS OF THE MAYOR.—The Mayor shall have and exercise such powers, prerogatives and authority, acting independently of or in concert with the City Council, as are conferred by the provisions of this act, or as may be conferred upon him by the City Council, not inconsistent with the general purposes and provisions of this charter, and shall have the power to administer oaths, and shall sign all contracts and shall have the right and authority at any time to remove any officer or employe of the city subject to the provisions of this act; provided, however, he shall not have the right to remove one of the Aldermen of the city or the Controller, except by acting in concert with the other Aldermen as the City Council.

In case of the disability or absence of the Judge of the Corporation Court, the Mayor, or in the absence or disability of the Mayor, the Mayor Pro Tem, shall act as Judge of the Corporation Court.

SEC. 8. ANNUAL BUDGET.—It shall be the duty of the Mayor from time to time to make such recommendations to the Council as he may deem to be for the welfare of the city, and on the second Monday of March of each year to submit to the Council the annual budget of the current expenses of the city for that fiscal year, each item in which may be increased, reduced or omitted by the Council, subject to the veto power of the Mayor.

The fiscal year of the City of Houston is hereby designated, beginning with the first day of March of each year and closing with the last day of February next ensuing thereafter.

SEC. 9. SALARY OF THE MAYOR.—The salary of the Mayor of the City of Houston shall be four thousand dollars per annum, which said salary shall be payable in equal monthly installments. The Mayor shall devote his entire time to looking after the business and administration affairs of said city, or performing such duties as may devolve upon or be incumbent upon him to perform, and if for any reason, except in case of sickness or on business for the city, the Mayor shall absent himself from the city or fail or refuse to perform and discharge the duties of his office, for a period of time exceeding fifteen days, he shall not be allowed any compensation for such time, exceeding fifteen days, as he may fail to perform the duties of his office, but his salary shall for each and every day during such time and in excess of the fifteen days, be ratably reduced and deducted from his next monthly payment.

ARTICLE VII.

SECTION 1. CITY COUNCIL.—There shall be a City Council of the City of Houston, which shall consist and be composed of a Mayor and four Aldermen, with full power and authority, except as herein otherwise provided, to exercise all powers conferred upon the city subject to the veto power of the Mayor as hereinbefore provided.

SEC. 2. QUALIFICATION OF ALDERMEN.—No person shall be elected an Alderman unless he be a citizen of the United States, and shall have been for five years immediately preceding such election a citizen of the City of Houston, and for two years prior to his election a bona fide owner of real estate in said city.

All Aldermen shall be elected by a vote of the people at large, and if nominated by any political party or organization as a candidate at any primary election, said nomination shall be made by voting for the candidate at large in said city.

No person shall be eligible to office who shall have been nominated in any primary election in a ward or precinct of the city, or in any manner which will prevent the voters at large in said city from exercising the privilege of voting for or against said candidate.

SEC. 3. JUDGE OF ELECTIONS.—The City Council shall be the judge of the election and qualification of its own members, subject to review by the courts, in case of contest.

SEC. 4. RESTRICTIONS UPON MEMBERS OF THE COUNCIL.—No member of the City Council shall hold any other public office, or hold any office or employment, compensation for which is paid out of public moneys; nor be elected or appointed to any office created by, or the compensation of which was increased or fixed by the City Council while he was a member thereof, until after the expiration of at least one year after he has ceased to be a member of the City Council. Nor shall any member of the City Council, or any officer of the City of Houston, be pecuniarily interested, directly or indirectly, in any contract let by the city, Board of School Trustees of the Independent School District of the City of Houston on any work done by the city or by the Board of School Trustees of the Independent School District of the City of Houston, nor in any matter wherein the rights or liabilities of the City of Houston are, or may be involved; nor shall any member of the City Council, or any other officer of the city, be interested, directly or indirectly, in any public work or contract let, supervised or controlled, or which shall be paid for, wholly or in part, by the State of Texas, or any of the counties or municipalities therein, whether incorporated under general or special law.

In the event any such officer of the City of Houston shall become interested, directly or indirectly, in any contract or work, purchase or sale made by the City of Houston, then the said contract or work, purchase or sale, shall become null and void and shall be discontinued, and new arrangements shall be entered into as in case of the incipency of the contract or work, purchase or sale.

Any member of the City Council, or any officer or employe of the city, becoming interested, directly or indirectly, as aforesaid, in any contracts, work, purchase or sale, by or with any of the agencies aforesaid, shall forfeit all right or claim to the title and emoluments of any office which he may happen to hold in said city, and shall be expelled therefrom by the Mayor or City Council, or if they shall fail to remove said officer, employe or member of the City Council guilty as aforesaid, he shall nevertheless be subject to removal upon the action of any five citizens taken in one of the district courts of Harris County in such proceedings as are appropriate and proper, and shall in addition be guilty of misdemeanor felony, as the case may be, as is or may be provided in the penal statutes of the State of Texas.

SEC. 5. RULES OF THE COUNCIL.—The City Council shall determine its own rules of procedure, may punish its members for disorderly conduct, shall compel the attendance of members, and with the concurrence of a majority of the members elected, may impeach a member.

Any member of the City Council who shall have been convicted of bribery or who shall violate any of the provisions of this act shall forfeit his office and the emoluments attached thereto.

SEC. 6. MEETINGS OF THE COUNCIL.—The City Council shall prescribe by ordinance the time and place of its meetings, and the manner in which special meetings thereof may be called.

A majority of the members of the Council shall constitute a quorum to do business; shall sit with open doors; shall keep a journal of its own proceedings, which shall be public and constitute one of the archives of the city.

The Council shall act only by ordinance, resolution or motion, and all ordinances, resolutions or motions, except ordinances making appropriations, shall be confined to one subject, which shall be clearly expressed in the title, and ordinances making appropriations shall be confined to the subject of appropriation.

The ayes and naves shall be taken upon the passage of all ordinances or resolutions and entered upon the journal of its proceedings, and every ordinance, resolution or motion shall require on final passage the affirmative votes of the majority of all the members of the City Council.

No ordinance or resolution shall be passed finally on the date it is introduced, except in the case of public emergencies, and then only when requested by the Mayor in writing; provided that no ordinance or resolution making a grant of any franchise or special privilege shall ever be passed as an emergency measure.

SEC. 7. VACANCIES.—In case of the death, resignation, removal from the city, or disqualification arising from any cause, of any Alderman, his office shall thereupon become vacant and an election shall be ordered by the City Council to elect his successor. At least twenty days notice of said election shall be given, by publication in some daily newspaper in the City of Houston, and said election shall be held pursuant to the provisions of this act, or as may be required by the laws of the State of Texas, when not in conflict with this act.

SEC. 8. The City Council shall, consistent with the provisions of this act, have power to establish any office that may in its opinion be necessary or expedient for the conduct of the city's business or government, and may fix its salary and define its duties; provided, however, that all offices established by the Council shall be subject to discontinuance or be abolished by the Council at any time, and any encumbent of any office, except the Controller, may be removed at any time by the Mayor, with or without the concurrence of the Council; and in no case shall any officer or employe of the city be entitled to receive any compensation or emolument of any office which may be abolished, or from which he may be removed, except for services rendered to the date when the office was abolished or the encumbent removed.

The Council shall require all officers of the city to give bond in such sum as may be prescribed by ordinance, which sum shall always be of sufficient amount amply to protect the city.

SEC. 9. The Mayor or the City Council, or a committee of the city duly authorized by it, may and it shall be their duty at any and all times to investigate each and every department of the city government and the official acts and conduct of the city officials; and for the purpose of ascertaining facts in connection with such investigation, shall have power to compel the attendance and testimony of witnesses; to administer oaths and to examine such persons as they may deem necessary and to compel the production of books and documents. Failure to appear by any one when served with notice to do so shall be a contempt, which may be punished by fine, and in default of the payment thereof within five days, the person so fined may be imprisoned. Willful false swearing in such investigations and examinations shall be perjury and punishable as such.

SEC. 10. It shall be the duty of the City Council at its second meeting in April, or any time thereafter, of every year, to appropriate such sums of money respectively for each of the various departments of the city government as it may deem necessary for their maintenance during the current year. The current fiscal year shall begin on the first day of March of each year, and end on the last day of February next thereafter.

In addition to the departmental appropriations herein provided for, the Council shall also make such appropriations for contingent purposes as may be deemed necessary. The Council may also at the same or any subsequent time appropriate a sum not to exceed one thousand dollars (\$1,000.00) to be used by the Mayor as an emergency fund for any current year, and for which he shall not be required to account.

The appropriations herein provided for shall be based upon estimates submitted by the Mayor in his annual budget.

The head of each department created by the City Council shall make a written report to the Mayor, not later than the fifth day of March in each and every year, showing the operations of the department for the preceding year. These reports shall be transmitted to the Mayor, and shall accompany and be made a part of the Mayor's report to the City Council, which report shall be made not later than the fifteenth day of March of each year.

The Mayor shall also make such recommendations to the City Council concerning the increase or decrease of departmental estimates as in his judgment may best serve the interests of the city, and he shall also submit an estimate for a general contingent fund for the current year.

In making up the budget allowance for any current year, the City Council shall first make provision for the payment of the interest and the creation, setting aside and preservation of a legal sinking fund upon all of the outstanding bonded indebtedness of the city, and shall then make such appropriations as the remaining revenues of the city justify, to be apportioned among the respective departments, or otherwise appropriated for public uses, as to the Council may seem best; provided, however, that in no case shall the entire appropriation as made, which comprehends interest and sinking fund on the bonded debt, together with other public uses and purposes, ever exceed the estimated available resources, which shall be based upon the probable revenues of the city derived from ad valorem taxes upon the basis of the total valuation of the property for taxation for the preceding year, and of such other contingent revenues of the city as may probably accrue.

It shall be deemed a malfeasance for the City Council to make an appropriation in the budget, the sum total of which shall exceed the estimated available or probable revenues for any current fiscal year.

SEC. 11. BUSINESS SESSIONS.—For the purpose of conducting and transacting the ordinary business and administrative affairs of the city, the City Council shall be continuously in executive session, or open and ready to be convened therefor at any time, and at such hours as the Mayor may designate, and it is hereby declared to be the duty of every member of the City Council to attend at all times the executive sessions which may be called by the Mayor, or in case of his failure to call the same, by a majority of the members of the City Council, whenever they deem it expedient to do so.

SEC. 12. SALARY.—The Aldermen shall each receive a salary of twenty-four hundred dollars (\$2,400.00) per annum, payable in equal monthly installments, and shall devote their entire time to the service of the city, and shall perform all of the duties required by this act, and such other administrative duties as may be allotted or designated by the Mayor, from time to time.

The Council may remove at any time any Alderman by majority vote, for inattention to the affairs of the city, misconduct, or any grounds sufficient in judgment of the Council for removal.

ARTICLE VIII.

CITY CONTROLLER.

SECTION 1. MANNER OF ELECTION.—The City Council shall at its first meeting in May, 1906, or as soon thereafter as it may be disposed to do so, and bi-ennially thereafter, elect a Controller, who shall hold his office for two years or until his successor is elected and qualified in the manner prescribed above, and who shall not be removed except by impeachment proceedings of the City Council, at which proceedings he

shall be given ample opportunity to be heard, and may be represented by counsel, with the right to summon witnesses and compel the production of books and papers upon process duly issued by the City Council.

It shall require a majority vote of all the members of the City Council, which shall be a matter of record, to impeach the Controller.

SEC. 2. DUTIES OF THE CONTROLLER.—It shall be the duty of the Controller to superintend and supervise the fiscal affairs of the city, and to manage and conduct the same as prescribed by this act. He shall give bond in such sum as may be fixed by ordinance, conditioned that he will faithfully and honestly perform and discharge the duties of the office as the same are herein defined, or as may be prescribed by ordinances not inconsistent with the provisions of this act.

SEC. 3. BOOKS OF ACCOUNT.—It shall be the duty of the Controller to keep books of account of the City of Houston, and to make such financial reports and statements as are provided by the terms of this act. His books of account shall exhibit accurate and detailed statements of all moneys received and expended for account of the city by all city officials and other persons, and shall show in detail the property owned by the city and the income derived therefrom.

He shall also keep separate accounts of each and every appropriation made by the City Council, showing the date thereof and the purposes for which the same is made, and shall show for what each payment of any public money is made and the manner of making the same, and to whom same is made.

He shall keep a separate account with each department of the city government, and also such other accounts as may be necessary to show a complete financial statement of the city, and he shall be prepared at every regular meeting of the City Council to give such information concerning the finances of the city as the Council may require.

All warrants or orders for payment of any public fund or moneys for any purpose shall be signed by the Controller and the Mayor. No warrant not signed by the Controller shall be authority for the payment of any public funds whatever, but the Controller shall in no instance, unless the money is in the treasury and in the fund against which it is drawn, sign any warrant or order for the payment of any sum or amount for any purpose; provided, however, that nothing herein contained shall prevent the issue and sale of warrants to anticipate the current revenue for any one year, which said warrants shall bear such rate of interest, not exceeding five per cent, as the City Council by ordinance may prescribe.

He shall not sign any contract nor make or execute any warrant or order for the payment of any sum of money, unless the same be legal, and all prerequisites and requirements shall have been complied with, nor until after an appropriation has been duly and legally made therefor.

He shall, whenever deemed necessary, require all accounts presented to him for settlement or payment to be certified to by affidavit, and he is hereby authorized to administer oaths, with authority to compel and require persons to answer such questions as may be propounded to them

touching the correctness of any account or claim against the city. He shall require all persons who shall have received any moneys belonging to the city, and not having accounted therefor, to settle their accounts, and it is hereby made his duty from time to time to require all persons receiving moneys, or having the disposition or management of any property of the city of which an account is kept in his office, to render statements thereof to him; provided, that no warrant or order shall ever be issued in favor of any person or corporation, or to the assignee or agent of any person indebted in any manner for taxes or otherwise to the city, unless such debt so due and owing to the city be paid.

No disbursing officer of the city, nor any one having money in his possession for the account of the city, shall pay the same to any person or persons for the account of the city, except to the regularly designated officer or custodian of the public funds for the city, except upon draft or warrant countersigned by the Controller of the City of Houston, and signed by the Mayor; and the Controller shall not countersign any such draft or warrant until he has audited and examined the claim and found the same justly and legally due and payable, and that the payment has been legally authorized, and appropriation therefor duly made, and that the appropriation has not been exhausted.

SEC. 4. ANNUAL REPORT.—The City Controller shall, on or before the fifteenth day of March in each year, prepare and transmit to the City Council a report of the financial transactions of the city during the fiscal year ending the last day of February next preceding, and of its financial condition on the said last named day in February. The report shall contain an accurate statement in summarized form and also in detail of the financial receipts of the city from all sources and the expenditures of the city for all purposes, together with a detailed statement of the debt of said city, and the purposes for which said debt was incurred, and of the property of said city, and of the accounts of the city with the grantees of franchises.

In addition to the annual statement herein required and of the reports which may be demanded by the Council at any time, it is especially made the duty of the Controller to be able to show at any time, and certainly upon or immediately after the first of each month, a comprehensive and accurate statement of the financial affairs of the City of Houston, and if any officer of any department or any employe of the city shall fail to make such stated or stipulated reports as and at the times required either by the Mayor or the City Council, it shall be the duty of the Controller to report such delinquency or failure to the Mayor, and further to state at any time any carelessness or negligence of any officer or employe in the making or stating of reports covering any matter within the range of the duty of said officer or employe.

SEC. 5. RIGHT TO EXAMINE THE BOOKS OF THE GRANTEES OF PUBLIC FRANCHISES.—The City of Houston shall have the right to regulate the rates, fares, tolls and charges to be collected from the public by any holders, owners, operators, persons or incorporations enjoying any grants or franchises from the City of Houston, pertaining to public utilities, including furnishing of lights, water, telephones and street car service, etc., pertaining to a public or *quasi* public duty, and the right and authority is hereby given to the Mayor

or to the City Council to require the City Controller or such other officer or employe as may be designated, to examine, carefully inspect all of the books, accounts, papers and documents, as well as the property of such persons or corporations using and enjoying any of said grants or franchises from the City of Houston as above stated, and to make such reports of said examination as required by the Mayor or City Council, when deemed necessary, for the following purposes:

1. When such franchise or grant was made upon the consideration and agreement that the City of Houston should receive a per cent. or portion of the revenue derived from the use of said grant or franchise.

2. When the persons or corporations above referred to have listed their property for taxation at a valuation deemed by the City Council or the Mayor to be below its actual value, or fails to list the same for taxation.

3. When the City Council desires to fix the rates, fares, tolls and charges which said persons or corporations above described shall charge the public for water, lights, transportation or other services rendered or furnished under the franchises granted to it or them by the City of Houston, and the information is desired or deemed necessary by the Mayor or City Council as a basis upon which to fix a proper rate.

4. When the Mayor or City Council have directed the individuals or corporations above specified to extend their lines and service, or to improve their service in any manner necessary for the public comfort and convenience, or to make improvements and betterments of their property, and such persons or corporations demur thereto on the ground that the income from their property used under said franchise is not sufficient to justify the same.

Such examinations and reports provided for in this section are for the purpose of ascertaining the value of the property and the income derived from it, and the reasonable expense for its operation.

ARTICLE IX.

GENERAL PROVISIONS.

SECTION 1. ACTIONS BY CITIZENS.—Any citizen who is a property taxpayer of the City of Houston may maintain an action in the proper court to restrain the execution of any illegal, unauthorized or fraudulent contract or agreement on behalf of said city, and to restrain any disbursing officer of said city from paying any illegal, unauthorized or fraudulent bills, claims or demands against said city, or any salaries or compensation to any person in its administrative service whose appointment has not been made in pursuance of the provisions of law and the regulations in force thereunder. And in case any such illegal, unauthorized or fraudulent bills, claims or demands, or any such salary or compensation, shall have been paid, such citizen may maintain an action in the name of said city against the officer making such payment and the party receiving the same, or either, or both, to recover the amount so paid, and such amount, after deducting all expenses of the action shall be paid into the city treasury; provided, however, that

the court may require such citizen to give security to indemnify the city against costs of court, unless the court shall decide that there was reasonable cause for bringing the action. The right of any property taxpayer of the city to bring an action to restrain the payment of compensation to any person appointed to or holding any office, place or employment in violation of any of the provisions of this act, shall not be limited or denied by reason of the fact that said office, place or employment shall have been classified as, or determined to be, not subject to competitive examination; provided, however, that any judgment or injunction granted or made in any such action shall be prospective only, and shall not affect payments already made or due to such persons by the proper disbursing officers.

In case of any unsatisfied judgment, or any suit or process of law against said city, any five or more citizens who are freeholders of said city shall, upon petition, accompanied by affidavit that they believe that injustice will be done to said city in said suit or judgment, be permitted to intervene and inquire into the validity of said judgment, or defend said suit or action as fully and completely as the officers of said city would by law have the right to do.

SEC. 2. ELECTIONS.—That in each voting precinct of the city, as the same may be legally defined, shall be established and arranged at least one voting place, and where two or more voting places are established, they shall be so located as to be most convenient to the greatest number of voters, with a distinct set of election officers, ballot boxes and registration books for each voting place; provided, the voter shall vote in the district or precinct of his residence.

The City Council shall make all necessary regulations concerning elections; the manner and method of holding the same. Such regulations, however, shall be in keeping with the provisions of this act, and shall be in keeping with and consistent with the provisions of the State law applicable to elections in municipalities, in so far as the same may be practicable, and the City Council shall provide for the examination and counting of the returns of elections, declarations of the result thereof and the issuance of proper certificates to the successful candidates; and it is hereby made the duty of the Council to examine and count the returns at its first regular meeting after the election shall be held, or if no regular meeting shall be held within one week after an election is held, it is hereby made the duty of the Mayor to call a special meeting of the Council for the purpose of counting the vote and determining the result of the election within one week after the election is held, and the officers declared to be elected at such election shall be entitled to qualify immediately after the declaration of the result of the election upon taking the oath of office prescribed by law.

The City Council may, consistent with the other provisions of this act, and conforming to all the provisions of the State law regulating primary elections in cities and towns, in so far as the same may be applicable, prescribe the manner and method of holding primary elections by all political parties or political organizations of any kind whatsoever, and to determine the rules that shall obtain with respect to the representation the respective parties or candidates may be entitled to at the polls; may prescribe an official ballot, official returns, etc., and

the expense of all primary elections held for the purpose of nominating candidates of any political party or organization for city officers shall be borne and paid for by the City of Houston.

SEC. 3. PETITIONS.—The petitions provided for in this act need not be on paper, and may be printed or written, but the signatures thereto must be the autograph signatures of the persons whose names purport to be signed. To each signature the house address of the signer must be added, and the signature must be made, acknowledged or proved before an officer authorized by law to take acknowledgments and proof of deeds. The certificate of such officer under his official seal that a signature was so made and acknowledged or proved shall be sufficient proof of the genuineness of the signature for the purposes of this act. The signing of another's name, or of a false or fictitious name, to a petition, or the signing of a certificate falsely stating either that a signature was made in presence of the officer or acknowledged or proved before him, shall be punishable as a forgery.

SEC. 4. PUBLIC ACT.—That this act shall be deemed a public act, and judicial notice shall be taken thereof in all courts.

SEC. 5. EXISTING ORDINANCES.—All ordinances of the City of Houston, not inconsistent with the provisions of this charter, shall remain in full force and effect until altered, amended or repealed by the City Council; provided, that the power to pass such ordinances under former charters has not been repealed expressly or impliedly by the terms of this act.

SEC. 6. THE PRESENT OFFICERS.—All elective officers elected at the last regular city election, except the Mayor, Aldermen and City Attorney, unless sooner removed by the Mayor or City Council for cause, shall retain their offices and receive the pay at present provided, until two years have expired from and after the date of their election and qualification in April, 1904.

All appointive officers, or all officers whose positions are created by charter or ordinance, not elected by the people, shall hold their offices and continue in the service of the city subject to the will and pleasure of the Mayor.

SEC. 7. PRINTED ORDINANCES AS EVIDENCE.—All ordinances of the City of Houston published in book or pamphlet form, and purporting to be published "By Authority of the City Council of the City of Houston," shall be received by all the courts of the State of Texas as *prima facie* evidence of the due passage and publication of such ordinances as appear therein; provided, that no person shall be precluded from showing by competent evidence that any ordinance published "By Authority of the City Council of the City of Houston," as aforesaid, is not a true copy of the original ordinance.

SEC. 8. CITY NOT REQUIRED TO GIVE BOND.—It shall not be necessary in any action, suit or proceeding in which the City of Houston is a party for any bond, undertaking or security to be demanded or executed by or on behalf of said city in any of the State courts, but all such actions, suits, appeals or proceedings shall be conducted in the same manner as if such bond, undertaking or security had been

given as required by law, and said city shall be just as liable as if security or bond had been duly executed.

SEC. 9. PUBLIC PROPERTY EXEMPT FROM EXECUTION SALE.—The property, real and personal, belonging to the City of Houston shall not be liable to be sold or appropriated under any writ of execution, nor shall the funds belonging to the city in the hands of any person be liable to garnishment, nor shall the city or any of its officers or agents be required to answer any writ of garnishment served upon or issued against it, and a failure to do so shall not entail any liability upon the city, but if the Mayor of the city elects so to do, he may answer in a writ of garnishment for the city in his discretion.

SEC. 10. No person shall be an incompetent judge, justice, witness or juror by reason of his being an inhabitant or a freeholder, or a taxpayer of the City of Houston, in any action or proceeding in which said city may be a party at interest, and all officers and employes of said city shall be exempt from jury service.

SEC. 11. Before the City of Houston shall be liable for damages for personal injuries of any kind, the person injured or some one in his behalf shall give the Mayor or City Council notice in writing of such injury within ninety days after the same has been sustained, stating in such notice when, where and how the injury occurred, and the apparent extent thereof, and the failure to so notify the city within the time and manner specified herein shall exonerate, excuse and exempt the city from any liability whatsoever.

SEC. 12. LIABILITY AND NEGLIGENCE.—The City of Houston shall not be liable to any person for damages caused from streets, ways, crossings, bridges, culverts or sidewalks being out of repair from negligence of said corporation unless the same shall have remained so for ten days after special notice in writing given to the Mayor or City Council.

SEC. 13. PLEADING ORDINANCES.—It shall be sufficient in all judicial proceedings to plead any ordinance of the city by caption, without embodying the entire ordinance in the pleading, and all printed ordinances or codes of ordinances shall be admitted in evidence in any suit, and shall have the same force and effect as the original ordinance. Certified copies of ordinances may also be used in evidence.

SEC. 14. This act must be deemed a public act and judicial notice shall be taken thereof in all courts.

SEC. 15. OWNERSHIP AND REGULATION OF PUBLIC UTILITIES.—The right is hereby granted to the City of Houston to acquire its public utilities, such as gas, water and electric light works, and underground, surface and elevated street railways, subways, or underground conduit systems for electric light, power, telephone, telegraph and other wires used for the purpose of transmitting any electric service. That such utilities may be purchased by a payment in cash of twenty-five percent of such price, the balance in annual installments, including interest, to be paid out of the revenues of such utility, and that such works so purchased shall stand pledged as security for the

payment of the amount due thereon, but that no judgment shall be rendered against the city upon any deferred note, requiring the city to pay any specified sum of money, but said judgment shall be merely one of foreclosure, divesting and depriving the city of the possession of the property so purchased but not paid for, in which event the city shall forfeit and lose only the cash payment of twenty-five per cent of the agreed price, without liability or judgment in any sum for the unpaid purchase price; provided, that no purchase or expenditure shall be made under this section, unless the same shall first have been submitted to the vote of the qualified tax-paying voters at an election to be held exclusively for that purpose.

And the right is hereby expressly granted to the City of Houston to regulate all public utilities in said city and to require efficiency of public service, and to require all persons or corporations to discharge the duties and undertakings for the performance of which the respective franchises were made.

SEC. 16. IMPROVEMENT DISTRICTS.—The City Council may, and upon petition shall, divide the city or any portion of the corporate territory thereof, into "Improvement Districts," clearly defining the limits and boundaries of each district; and shall have the right and is hereby authorized to borrow money on the credit of any improvement district so created in the city, and issue bonds therefor for the purpose of constructing and laying permanent sidewalk improvements in such district, but every proposition to borrow money on the credit of any improvement district for permanent sidewalk improvements therein shall be submitted to the qualified tax-paying voters living within and owning property in such district, and shall distinctly specify the purpose for which the loan is desired, and the permanent sidewalk improvements proposed to be constructed. If said proposition be sustained by a majority of the votes cast in such election in such district, such loan shall be lawful. All bonds shall specify for what purposes they are issued, shall bear interest at a rate not greater than five per cent per annum, and, when sold, shall net not less than par value, with accrued interest to date of payment of the proceeds into the city treasury, and such bonds may be negotiated in lots, as the City Council may direct. No debts shall be contracted for the payment whereof such bonds are issued until such bonds shall have been disposed of, and no debts shall ever be created against any such improvement district, unless at the same time provision be made to assess and collect annually upon the property in such improvement district a sum sufficient to pay the interest on such bonds and create a sinking fund of at least two per cent thereon. The interest and sinking fund tax which shall be collected annually from the property in such improvement district for such bonds shall be in addition to the other current taxes, levied by the city, never exceed twenty-five cents on the one hundred dollars appraised valuation of property in said district, and shall be kept separate by the city from other funds, and shall not be diverted or used for any other purpose than to pay interest and principal on such bonds, and the City Controller shall sign no draft or warrant on said fund, except to pay the interest and redeem the bonds for which it was provided. The sinking fund for such bonds shall be invested as provided in Section 1, Article IV of this Charter, or in bonds of such im-

provement district. The tax levied for interest and sinking fund for bonds issued for permanent sidewalk improvements in any district shall not exceed twenty-five cents on the one hundred dollars valuation annually; provided, however, that all property situated within any improvement district which may be created under the authority of this section shall participate to its full extent in, and be equally improved in its just proportion by said sidewalk improvements.

SEC. 17. The present Mayor, City Attorney and members of the City Council, as composed under the Charter of 1903, shall continue to serve and receive the pay provided for at the time of their election, until the next city election held as hereinafter provided in this act, and until the qualification of the officers elected at said election, and shall temporarily exercise the powers and be subject to the limitations in this charter contained. All other elective officers elected at the last city election, unless sooner removed for cause, shall retain their offices and receive the pay at present provided for said officers, until the expiration of two years from and after their election and qualification in April, 1904.

It shall be the duty of the Mayor within forty days after this act becomes a law, or as soon thereafter as practicable, to order an election by giving twenty days' notice thereof, at which election a Mayor and four Aldermen shall be elected at large in said city; or if for any reason the Mayor fails to make said call for said election within a reasonable time it shall be the duty of the City Council, by a majority vote thereof, to issue said call for said election by giving twenty days' notice thereof. Said election shall be held as provided for herein, and the Mayor and four Aldermen so elected at said election shall hold their respective offices until the second Monday in April, 1907, or until their successors are elected and qualified.

There shall be held on the second Monday in April, 1907, and every two years thereafter, until otherwise provided by law, a regular election for a Mayor and four Aldermen in the City of Houston, who shall perform the duties and discharge the obligations conferred and imposed by the provisions of this act, and who shall hold their offices for two years, or until their successors are elected and qualified.

SEC. 18. Be it further enacted, that all laws and parts of laws in conflict herewith, be and the same are hereby repealed; and that all previous special acts granting or amending charters of the City of Houston, be especially repealed.

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McCary Jones

MEMPHIS CHARTER

Amendment to the
Charter of the City
of Memphis, Tennes-
see, being Senate Bill
No. 574, Chapter
298, Acts of the
Legislature, Year—

Nineteen Hundred & Nine



Population of Memphis.

Memphis, Tenn., has a population of 131,105. This is an increase of 28,785, or 28.1 per cent, over 102,320 in 1900.

*Census
1910*



Mr. William Henry Cabot
2425 Broadway Ave.,
New York, N.Y.

1076323

CHAPTER 298

SENATE BILL NO. 574.

AN ACT to be entitled An Act to amend an Act entitled "A Bill to establish the Taxing Districts in this State and to provide means of local government for the same," being Chapter 11, of the Acts of 1879, and all amendatory Acts thereof, constituting the present charter of the city of Memphis so as: (1) To change the name of the Board of Fire and Police Commissioners to the "Board of Commissioners of the City of Memphis;" and to provide for the qualification, election of the members of the same, and to provide for the membership of the said Commission upon the taking effect of this Act. (2) To abolish the Board of Public Works, and to provide for the exercise and discharge of the powers and duties heretofore vested in and devolved upon that Board by the said Board of Commissioners. (3) To more fully set out and define the powers and duties of said Board of Commissioners. (4) To more fully set out and define the powers and duties of the several members of the said Board of Commissioners; to fix their term of office and their compensation. (5) To separate the affairs of the city into various departments, to provide the scope and work of each department, and to provide for the heads thereof. (6) To create the office of Electric Inspector; and to define his duties, term of office, and compensation; and to change the name of City Register to "City Clerk." (7) To abolish the Board of Health as now constituted, and to provide for the exercise and discharge of the powers

and duties heretofore vested in and devolved upon that Board by the Department of Health under the said Board of Commissioners. (8) To provide for the nomination and election by said Board of Commissioners of a Chief of the Police Department, a Chief of the Fire Department, a Superintendent of the Health Department, a City Attorney, a City Judge, a City Clerk, a Clerk of the City Court, a City Engineer, a City Marketmaster, a City Paymaster, a City Chemist, a City Harness-maker, a Building Inspector, a Plumbing Inspector, a Boiler Inspector, a Gas and Electric Light Inspector, an Electric Inspector, a Meat Inspector, an Inspector of Weights and Measures, a Collector of License and Privilege Taxes, a Veterinary Surgeon, a Wharfmaster, a Superintendent of the City Hospital, and for the appointment and removal of subordinate officers and employes, and to prescribe the term of office and compensation of the incumbent of said elective offices. (9) To provide for the filling of vacancies occurring in the Commission or in any municipal office, and for the conduct of said office whenever the regular incumbent thereof is temporarily absent or disabled. (10) To change the time for the meeting of the Board of Commissioners, and to provide for special or called meetings. (11) To prescribe the method of the passage of all ordinances and resolutions. (12) To abolish the office of Street Commissioners as now constituted. (13) To provide for the granting of franchises and the issuing of bonds, and a referendum as to all ordinances granting franchises or authorizing a bond issue under certain restrictions. (14) To provide for the making and execution of all municipal contracts. (15) To pro-

vide for a Civil Service Commission, and for the adoption and enforcement of a system of civil-service rules. (16) To limit appeals from the City Court, and to prescribe for the remission of fines in certain cases. (17) To make it lawful to expend in any one year a greater amount of money in any department than shall have been appropriated for that department; *provided*, such excess can be made up from a surplus in any other department or departments, and the same to be authorized by ordinance duly passed. (18) To change the manner of selecting an Assistant City Attorney; to fix his compensation and prescribe his duties, and to provide for his removal. (19) To provide for uniformity in the time for the expiration of the terms of office of all municipal officers, elected by the people, so as to make said term expire on December 31, 1911, and every four years thereafter.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee*, That the Act entitled “A Bill to establish Taxing Districts in the State, and to provide the means of local government for the same,” being Chapter 11 of the Acts of 1879 and all Acts amendatory thereof constituting the present charter of the city of Memphis be, and the same are hereby, amended in the manner and particulars and to the extent hereinafter provided.

**Memphis
Charter Bill.**

SEC. 2. *Be it further enacted*, That the name of the “Board of Fire and Police Commissioners” be, and the same is, changed to the “Board of Commissioners of the City of Memphis.” Said Board shall consist as at present of five members, one of whom

**Board of
Commissioners.**

shall be the Mayor. The first Board hereunder shall consist of the four members of the present Legislative Council of the City of Memphis, whose terms expire in November, 1911, and of a Mayor, who shall be elected by the people of the city of Memphis on the first Thursday after the first Monday in November, 1909. The qualifications of said Mayor and of the members of said Board of Commissioners shall be those now required by law for the members of the present Legislative Council, and the Mayor shall have the additional qualifications now provided by law for said office; *provided, however*, that no person shall be ineligible to said office because of having heretofore held said office.

SEC. 3. *Be it further enacted*, That the said Board of Commissioners shall have and exercise all of the powers and discharge all duties now vested in and imposed upon the present Board of Fire and Police Commissioners, the present Board of Public Works, and the present Legislative Council, together with such other powers and duties as are hereinafter prescribed.

SEC. 4. *Be it further enacted*, That the Board of Public Works is hereby abolished, and the powers and duties now vested in and imposed upon said Board and the several members thereof by law are hereby vested in and imposed upon the said Board of Commissioners and the several members thereof as herein provided.

SEC. 5. *Be it further enacted*, That the Board of Health as at present constituted is hereby abolished, and in lieu thereof is established a subordinate department to be known as the "Health Department," to be under the supervision and control of the Department of Public Affairs, which said department shall perform the duties and functions heretofore performed by the Board of Health.

SEC. 6. *Be it further enacted*, That the term of office of the Mayor to be elected under this Act in November, 1909, shall expire December 31, 1911, and the term of office of the Mayor thereafter shall be four years, and, to the end that uniformity may prevail, the term of office of the other four Commissioners composing the first Board of Commissioners hereunder is hereby extended to and including December 31, 1911. The term of office of all Commissioners thereafter shall be four years. All of said Commissioners, including the Mayor, shall hold office until their respective successors are elected and qualified.

**Term of
Mayor and
Commissioners.**

SEC. 7. *Be it further enacted*, That the compensation of the Mayor shall be six thousand dollars (\$6,000) per annum, payable in monthly installments, and that of the other members of said Board of Commissioners shall be three thousand dollars (\$3,000) per annum, payable in monthly installments. No member of said Board of Commissioners shall, directly or indirectly, receive any other or greater compensation than that just provided.

**Compensation of
Mayor and
Commissioners.**

**Classification of
Departments.**

SEC. 8. *Be it further enacted*, That to the end that the work of the city government may be classified and arranged and more efficiently conducted, there is now established the following departments, with the duties and powers, and made up as hereinafter indicated, viz.:

1. The Department of Public Affairs and Health.
2. The Department of Fire and Police.
3. The Department of Streets, Bridges and Sewers.
4. The Department of Accounts, Finances, and Revenues.
5. The Department of Public Utilities, Grounds, and Buildings.

**Officers'
Terms and
Compensation.**

SEC. 9. *Be it further enacted*, That at the first meeting of the said Board of Commissioners or at some meeting within thirty days thereafter there shall be elected by said Board the following officers, whose terms of office and whose annual compensation (payable in monthly installments) shall be as herein indicated, as follows:

City Attorney, two years, \$3,600.

City Judge, two years, \$2,500.

City Engineer, two years, \$3,000.

City Clerk, two years, \$3,000.

Chief of Police, one year, \$2,700.

Chief of Fire Department, one year, \$2,700.

City Paymaster, two years, \$2,000.

City Chemist, one year, \$2,400.

Superintendent of Health Department, two years, \$3,000.

Clerk of City Court, one year, \$1,800.

City Plumbing Inspector, one year, \$1,500.

City Meat Inspector, one year, \$1,500.

City Boiler Inspector, one year, \$1,680.

Collector of License and Privilege Taxes, one year, \$1,500.

Wharfmaster, one year, \$1,500.

Marketmaster, one year, \$1,200.

City Veterinary Surgeon, one year, \$1,200.

Gas and Electric Light Inspector, one year, \$1,500.

City Harnessmaker, one year, \$1,200.

Inspector of Weights and Measures, one year, \$1,800.

Superintendent of City Hospital, one year, \$1,500.

Electric Inspector, one year, \$2,000.

Building Inspector, one year, \$2,500.

Provided, that none of the said officers shall be paid or shall receive, directly or indirectly, any further or greater compensation than that above described; and, *provided, further, however*, that the Board of Commissioners by proper ordinance may increase the salary of the City Engineer to a sum not to exceed five thousand dollars (\$5,000) per annum.

SEC. 10. *Be it further enacted*, That no Commissioner or officer herein named shall demand or receive in any manner or form any greater compensation than provided for herein, and that it shall be a felony for a Mayor, any Commissioner of the city of Memphis, any Park or Water Department Commissioner, any Civil Service Commissioner, any elective, appointee, or subordinate officer, any employe,

or any one connected with the government of the city of Memphis in any manner to accept any moneys or gifts of any character whatever other than that stipulated for performing the duties of their office. For any violation of the above and conviction thereof he shall be guilty of a felony and imprisoned in the State penitentiary for not less than one year nor more than five years.

SEC. 11. *Be it further enacted*, That the Mayor shall be at the head and have charge of the Department of Public Affairs and Health; within the scope of this department shall be the general supervisor of all the affairs of the municipality; the office of the City Attorney, and matters pertaining thereto; the offices of City Judge and City Court Clerks, and all matters pertaining thereto; the office of the City Clerk, and matters pertaining thereto; the office of Superintendent of the Health Department, and matters pertaining thereto, including the City Hospital, the Veterinary Surgeon, and all matters properly pertaining to said departments; the office of the City Paymaster, and matters pertaining thereto; the receiving and filing of all reports of heads of other departments and reports from the Mayor as to his department, and to the general condition of the city with respect to all matters affecting the welfare of the municipality and its citizens. It shall be the duty of the Mayor, as the head of this department, to keep the Board of Commissioners from time to time advised as to all matters affecting the general welfare of the city. It shall also be the duty of the

Mayor to preside at all meetings of the Board of Commissioners and to appoint such committees as may be provided for by ordinance or resolution of the Board.

SEC. 12. *Be it further enacted*, That the Department of Fire and Police shall embrace the Fire Department and the Police Department, and all matters pertaining to such departments.

**Department of
Fire and Police—
Scope of.**

SEC. 13. *Be it further enacted*, That the Department of Streets, Bridges and Sewers shall embrace everything heretofore embraced in the Engineer Department, including bridges, streets, sewers, subways, sidewalks, viaducts, or new work connected therewith of every character, graveling, repair work of all kinds, city carpentering, also street sprinkling and cleaning, together with the stables, horses, mules, wagons and equipment connected with said work, and also matters heretofore under the supervision of the Plumbing Inspector and Harnessmaker.

**Department of
Streets, Bridges
and Sewers—
Scope of.**

SEC. 14. *Be it further enacted*, That the Department of Accounts, Finance and Revenue shall embrace all matters relating to the city finance and revenue; the auditing of all bills in every department, whether for purchasing, pay rolls, or otherwise; the supervision and auditing of books and accounts of every department of the city, together with the supervision of matters relating to front-foot assessments; within this department shall also be embraced the Inspector of Weights and Measures, and the Collector of License and Privilege Taxes, and all matters connected with this office.

**Department of
Accounts,
Finance and
Revenue—
Scope of.**

Department of
Public Utilities,
Grounds and
Buildings—
Scope of.

SEC. 15. *Be it further enacted*, That the Department of Public Utilities, Grounds and Buildings shall embrace all the affairs of the city connected with railroads, street car lines, gas and electric light companies, telephone and telegraph companies, Water Department, wharfage and Wharfmaster, market house and Marketmaster. Within this department shall also be embraced the Building Inspector, the Gas and Electric Light Inspector, the Boiler Inspector and the Electric Inspector, and all matters connected with those offices. This department shall also embrace all public grounds and buildings and public parks; *provided, however*, that nothing in this Act shall be deemed to affect the power and duties of the Park Commissioners of Memphis as the same are now prescribed by law, or the Water Commission.

Questions of
Jurisdiction and
How Settled.

SEC. 16. *Be it further enacted*, That whenever a difference of opinion shall arise as to what department embraces a particular work or matter, either because the same is not herein specially provided for or because of the difference of opinion as to the proper construction of the foregoing sections, the question shall be determined by the Board of Commissioners in regular session, and their conclusion shall be final and binding.

Assignment of
Commissioners.

SEC. 17. *Be it further enacted*, That at the first meeting of a Board of Commissioners hereunder, or within thirty days thereafter, the said Board of Commissioners shall assign one of its members, not the Mayor, to each of the four departments last

above mentioned, and the said four Commissioners shall thereafter be known and designated, respectively, as a Commissioner of the Department of Fire and Police, the Commissioner of the Department of Streets, Bridges and Sewers; the Commissioner of the Department of Accounts, Finance and Revenue; the Commissioner of the Department of Public Utilities, Grounds and Buildings. The Board of Commissioners, however, shall have the power by a majority of vote at any time to change any or all of the Commissioners, except the Mayor, from one department to another, such change to be made operative by resolution duly passed by said Board, such resolution to fix the time when it shall take effect and to take effect at the time as fixed.

SEC. 18. *Be it further enacted*, That upon any vacancy occurring in the Board of Commissioners by a death, resignation, removal, or otherwise, then the remaining four Commissioners shall have the power by majority of vote to elect a Commissioner to fill such vacancy, who shall hold office for the unexpired term. Pending such election, the Mayor (or if the vacancy be in the office of the Mayor) then the Commissioner of Department of Fire and Police shall assume and have charge of the department over which the Commissioner whose office has been vacated has charge; *provided*, that in the event in such an election by the Commission there shall be a tie vote on the question of the election of said Commissioner, then the Mayor shall have the right to cast both his own and the vote of the Commissioner of the office so vacated.

Vacancies.

Meetings of
Board.

SEC. 19. *Be it further enacted*, That the Board of Commissioners shall hold a regular meeting every Tuesday at 2:30 o'clock in the afternoon, and may hold such special meetings as may be called by the Mayor or any two of the other Commissioners.

If the business of any regular or special meeting be not concluded on the day when the same convenes, the Board may adjourn such meeting to any subsequent day of that week. All meetings of the Board shall be public, and shall be held at the place provided for such meetings, and said place cannot be changed, except by ordinance.

Officers
Not to be
Interested in
Contracts with the
City.

SEC. 20. *Be it further enacted*, That no Commissioner nor any officer nor subordinate officer of the city shall be connected with or interested in, directly or indirectly, any contract with the city, nor shall any Commissioner of the city receive any compensation other than that herein specially provided, nor shall extra pay be allowed or received by any Commissioner or officer by the city serving on a committee, agency, or commission whatever when appointed to such service by the Commissioner during his term of office; *provided, however*, that whenever the duties of any Commissioner shall require him to visit a point beyond the limits of Shelby County, his reasonable expenses shall be paid by the city.

Nomination of
Officers.

SEC. 21. *Be it further enacted*, That every officer for whose election by the Board of Commissioners provision is herein made shall first be nominated by the Commissioner to whose department such of-

fiere belongs, and no such officer shall be elected by the Board except on such nomination; *provided, however,* that if the Commissioner whose duty and function it is to nominate any officer shall fail within thirty days to make a nomination, then any member of said Board shall have the right to make a nomination or nominations, and the Board may thereupon elect the person so nominated.

SEC. 22. *Be it further enacted,* That the Commissioners of the city of Memphis shall fix the amount of bonds and the method of their approval to be required of all elective, appointive, or subordinate officers, and such other city employes whom the Commissioners of the city of Memphis shall require to give bond. The approval of the official bond of all elective, appointive or subordinate officers and other employes must be indorsed thereon and signed by the Commissioners of the City of Memphis, and shall be given and made by some good and solvent surety company. All bonds when approved shall be filed with the Clerk of the city of Memphis; all provisions of any law of this State relating to official bonds, not inconsistent with this charter, shall be complied with.

**Bonds of
Officers.**

SEC. 23. *Be it further enacted,* That no Commissioner or officer of the city shall during the term for which he is elected be appointed to or accept any other office under the city government or become an officer or employe (with or without pay) of the State or county in any capacity whatever; *provided, however,* that nothing in this section shall be construed

**May accept no
Other Office.**

to affect the office of County Trustee of Shelby County, who is now by law the receiver of taxes for the city.

SEC. 24. *Be it further enacted*, That in the event of the absence from the city or of the death, resignation, or removal of the Mayor or of his inability to act, the Commissioner of the Fire and Police shall have and exercise all the powers and duties of the Mayor, and in the event of the absence of the Mayor from any meeting of the Board, such Commissioner shall preside in his place, and it shall not be lawful for either the Mayor or the Commissioner of Fire and Police to absent himself from the city while the other is absent or disabled from attending to the duties of his office.

SEC. 25. *Be it further enacted*, That in the event of the death, resignation or removal of any officer of this city other than a member of the Board of Commissioners, it shall be the right and duty of the Board of Commissioners to elect as soon as practicable a successor to fill the vacancy; and if no election be had within thirty days after such vacancy occurs, the Mayor shall have the right, and it shall be his duty, to appoint some fit person to fill such vacancy until an election by the Board shall occur. The election by said Board to fill such vacancy shall be on nomination by the Commissioner of the department to which such officer belongs. In the event of the temporary absence or disability of any officer other than a member of the Board of Commissioners, the Board shall, if a majority of the members

thereof see fit, have the power to appoint some proper person to act in the place and stead of such officer during his absence or disability and to provide for the compensation of such person temporarily discharging the duties of said officer; *provided, however*, that there shall be no deduction from the salary of the regular incumbent of said office during such absence or disability unless the Board shall by resolution declare the absence from office of such incumbent to be without excuse.

SEC. 26. *Be it further enacted*, That within ninety days after organizing the Commissioners of the city of Memphis shall by ordinance appoint three Civil Service Commissioners, who shall hold office—one until January 1, 1911; one until January 1, 1912, and one until January 1, 1913. Upon the expiration of these respective terms, successors shall be elected to hold office for three years from the date of the election and until his successor is elected and qualified. Each of these Civil Service Commissioners shall receive an annual salary of \$300, payable monthly. The Chairman of the Commission for each annual period shall be the member whose term first expires. No person on said Commission shall hold or be a candidate for any office or public trust or profit, who is in arrears for taxes, or who is not a freeholder, and who has not resided in the city of Memphis, State of Tennessee, for at least six years next preceding his election; two of said members shall constitute a quorum to transact business. The Commission (Commissioners) of the city of Memphis

**Civil Service
Commissioners'
Terms,
Compensation,
Qualifications.**

may remove any of said Commissioners during their term of office for cause, four of the Commissioners of the city of Memphis voting in favor of such removal, and shall fill any vacancy that may occur in said Commission for the unexpired term. The Commissioners of the city of Memphis shall provide suitable rooms in which the said Civil Service Commissioners may hold its meetings. They shall have a Clerk, who shall be elected by the Commissioners of the city of Memphis, who shall fix his compensation and term of office. Said Clerk shall keep a record of all meetings of said Civil Service Commission, and do all necessary clerical work to carry out the rules and regulations of the said Commission. The Commissioners of the city of Memphis shall supply the said Civil Service Commission with all the necessary equipment to properly attend to such business.

SEC. 27. *Be it further enacted*, That before entering upon the duties of their office, each of said Civil Service Commissioners shall take and subscribe an oath, which shall be filed and kept in the office of the Clerk of the city of Memphis, to support the Constitution of the United States and the State of Tennessee, and to obey the laws and ordinances of the city of Memphis and to aim to secure and maintain an honest and efficient force free from partisan distinction or control, and to perform the duties of his office to the best of his ability.

SEC. 28. *Be it further enacted*, That said Commissioners shall on the first Monday in April and October of each year, or oftener if it shall be deemed nec-

**Removal for
Cause.**

**Clerk of
Commission.**

**Oath of
Civil Service
Commissioners.**

essary, under such rules and regulations as may be prescribed by the Commissioners of the city of Memphis, hold examinations for the purpose of determining the qualifications of applicant for positions, which examination shall be practical, and shall fairly test the fitness of the persons examined to discharge the duties of the position to which they seek to be appointed. Said Commission shall as soon as possible after such examination certify to the Commissioners of the city of Memphis double the number of persons necessary to fill vacancies, who, according to its records, have the highest standing for the positions they seek to fill as a result of such examinations, and all vacancies which occur that come under the civil service rule prior to the date of the next regular examination shall be filled from said lists so certified; *provided, however*, that should the list for any cause be reduced to less than three for any division, then the Commissioners of the city of Memphis or the Commissioner in charge of that department may temporarily fill a vacancy, but not to exceed thirty days.

**To Hold
Examinations.**

**To Certify
List to
Commissioners.**

SEC. 29. *Be it further enacted*, That all persons subject to such civil service examinations shall be subject to removal from office or employment by the Commissioners of the city of Memphis or the Commissioner in charge of that department for misconduct or failure to perform their duty under such rules and regulations as it may adopt; and the Chief of Police Department, Chief of the Fire Department, Superintendent of the Health Department, or any

**Removal for
Cause.**

Superintendent or foreman in charge of municipal work may peremptorily suspend or discharge any subordinate then under his direction for neglect of duty or disobedience of his orders; but shall within twenty-four hours thereafter report in writing such suspension or discharge and a reason therefor to the Commissioner in charge of his department, who shall thereupon affirm or revoke such discharge or suspension according to the facts.

Appeals.

Such employe (or officer discharging or suspending him) may within five days of such ruling appeal therefrom to the Commissioners of the city of Memphis, who shall fully hear and determine the matter and their conclusions in the premises shall be final.

Power to
Issue Process.

SEC. 30. *Be it further enacted*, That every member of the Board of Commissioners of the City of Memphis shall have the power to administer oaths and affirmations, and said Board of Commissioners of the city of Memphis shall have the power to issue subpoenas to compel by subpoena the production of books and papers, accounts, and the attendance of witnesses, and to take and hear testimony concerning any matter or thing pending before such Commissioners of the city of Memphis.

If any person so subpoenaed neglects or refuses to appear or to produce any book, paper or document as required by such subpoena, or shall refuse to testify before said Commissioners of the city of Memphis, to answer any competent question, he shall be deemed in contempt, and said Commissioners of the city of Memphis shall have power to take proceed-

ings in that behalf as provided by the general laws of the State. The Chief of Police must on request of the said Board of Commissioners of the city of Memphis detail a police officer or police officers to serve such subpoena or subpoenas.

SEC. 31. *Be it further enacted*, That said Civil Service Commissioner shall make annual report to the Commissioners of the city of Memphis, and they may require a special report from said Civil Service Commission at any time; and said Commissioners of the city of Memphis may prescribe such rules and regulations for the proper conduct of the business of said Civil Service Commission as shall be found expedient and advisable, including restrictions and appointments, promotions, removal for cause, roster of employes, certification of the records, and restrictions on payment to persons improperly employed.

**Annual Report,
Rules and
Regulations of
Civil Service
Commission.**

SEC. 32. *Be it further enacted*, That the Commissioners of the city of Memphis shall have the power to pass ordinances imposing suitable penalties for the punishment of persons violating any of the provisions of this Act relating to the Civil Service Commission.

SEC. 33. *Be it further enacted*, That any Commissioner of the city of Memphis at the head of a department of the city government certifying to the Chairman of the Civil Service Commission may cause any employe or employes in his department coming under civil service rules to be examined as

**Commissioners
May Cause
Examination of
Employes.**

to his fitness and qualifications to fill his position. The Chairman of the Civil Service Commission upon receipt of such communication from said Commissioner of the city of Memphis and the head of a department of the city government shall cite said employe or employes before the Civil Service Commission and examine them as to their fitness and qualifications to fulfill the duties of their position according to the standard and rules adopted by the Civil Service Commission as a test for such position; and said Civil Service Commission shall report the results of such examination to the Commissioners of the city of Memphis who requested such examination, and said Commissioners of the city of Memphis must either retain or dismiss said employe or employes as the result of said examination may show.

SEC. 34. *Be it further enacted*, That the provisions of the Sections 26 to 33, inclusive, shall apply to all appointive officers and employes of the city of Memphis, except those especially named in Section 10 of this Act, Commissioners of any kind, laborers whose occupation requires no special skill or fitness, and Assistant City Attorney where such officers are appointed.

SEC. 35. *Be it further enacted*, That all officers and employes who shall be employed by the city of Memphis shall be elected or appointed with reference to their qualifications and fitness and for good of the public service, and without reference to their political faith or party affiliation.

SEC. 36. *Be it further enacted*, That it shall be unlawful for any candidate for office or any officer in the employment of the city of Memphis, directly or indirectly, give or promise any person or persons any office, employment, benefit, or anything of value for the purpose of influencing or obtaining the political support, aid or vote of any person or persons. Any violation of the provisions of this section shall be a misdemeanor, and shall be grounds for removal from office.

**Promise of
Office
Prohibited.**

SEC. 37. *Be it further enacted*, That the Mayor shall sign all bonds, notes, or other evidence of indebtedness by the city, and shall also sign all contracts to which the city of Memphis is a party; *provided*, that if the Mayor refuses to sign any such contract or instrument, the same shall become effective without his signature by the signature of any three of the other Commissioners. All checks issued by the city on any account shall be countersigned by the Mayor and two Commissioners.

**Contracts,
Bonds, etc.,
How Signed.**

SEC. 38. *Be it further enacted*, That no contract involving the expenditure of exceeding five hundred dollars (\$500) shall be awarded or let until after the advertisement for at least one week by some newspaper published in Memphis, and then only to the lowest and best bidder; *provided*, that in case of emergency a publication of two days shall be sufficient.

**Advertisement
and Award of
Contracts.**

SEC. 39. *Be it further enacted*, That before any contract can become effective or binding on the city

of Memphis, it shall be approved by a majority of the members of the Board of Commissioners, and the members approving the same shall affix their signatures thereto, and the same shall be copied with such signature on the minutes of the proceedings of the Board.

Franchises.

SEC. 40. *Be it further enacted*, That the method of granting franchises shall remain as prescribed in Section 29 of Chapter 54 of the Acts of 1905, save and except that the ordinance granting such franchise shall be passed by a majority of the Board of Commissioners; *provided, however*, that no ordinance granting any franchise shall become effective until such ordinance shall have been passed at three separate regular meetings of the Board and shall have been published in some daily newspaper published in Memphis, Tenn., at least three times, each of said publications to be on the day prior to the meeting at which each passage of the ordinance occurs.

**Bond
Ordinance may
Become
Effective—How.**

SEC. 41. *Be it further enacted*, That no ordinance authorizing or providing for any issue of bonds shall become effective until thirty days after its final passage and until the same shall have been approved by a majority of the qualified electors of the city voting at an election to be called and ordered for that purpose; *provided, however*, that such submission to and approval of by said voters shall be unnecessary unless same shall have been requested by a petition in writing, signed by at least 500 qualified voters of the city of Memphis within thirty days after the

final passage of the ordinance providing for such bond issue.

SEC. 42. *Be it further enacted*, That the salary of the City Judge shall be as now prescribed by law; *provided, however*, that in the event of the temporary absence or disability of the City Judge from any cause, no deduction shall be made from his salary unless the Council shall by resolution declare that the absence from his duties was without reasonable excuse.

Salary of
City Judge.

SEC. 43. *Be it further enacted*, That no appeal shall lie from a judgment of the City Court rendered in the exercise of the jurisdiction of that court over all violations of municipal ordinances unless the judgment be for a fine of more than \$10 and costs; and, *provided, further*, that no order of said City Court remitting any fines shall become effective until it shall have been signed by the Mayor and two Commissioners.

Appeals.

Remission of
Fines.

SEC. 44. *Be it further enacted*, That no ordinance shall become effective until the same shall have passed at least three regular meetings of the Board of Commissioners and shall have received at each meeting a majority of all members composing said Board, and unless the same shall have been published in some daily newspaper in Memphis on the day preceeding (preceding) each meeting at which it had passed, and until the same shall have been published daily for at least one week after its final passage, in some newspaper published in Memphis, and shall have been duly and formally recorded in

Ordinances
Effective—When.

the office of the City Clerk in the minutes of the proceedings of the Board; *provided, however*, that by unanimous vote of all the Commissioners any ordinance may become effective immediately upon its final passage if the matter be one of emergency.

SEC. 45. *Be it further enacted*, That it shall be lawful to expend in any year a greater amount for any department than shall have been appropriated in the annual budget for the department; *provided*, such excess can be made up from a surplus in any other department or departments, and provided the same is authorized by ordinance or resolution duly passed.

SEC. 46. *Be it further enacted*, That all the special taxes heretofore provided for by the Legislature to be levied and assessed against the real and personal property in the city of Memphis are hereby abolished and all Acts providing for the same are hereby repealed.

SEC. 47. *Be it further enacted*, That the said Board of Commissioners of the city of Memphis shall have power by ordinance in a regular meeting to levy and collect a general ad valorem tax upon all real and personal property in the city of Memphis not to exceed two dollars (\$2) on every one hundred dollars of assessed value for all purposes, and it is further provided that out of said levy the said Board of Commissioners shall each year collect and pay to the School Commissioners of the city of Memphis twenty-five cents on every one hundred dollars of assessed value, to the Park Commissioners of the

Department
Expenditures may
Exceed Budget.

Ad Valorem
Taxes.

city of Memphis fifteen cents on every one hundred dollars of assessed value, and to the Cossit Library three cents on every one hundred dollars of assessed value.

SEC. 48. *Be it further enacted*, That the next regular municipal election shall be held on the first Thursday after the first Monday in November, 1909, at which there shall be elected a Mayor, who shall hold office until and including December 31, 1911. Subsequent municipal elections shall be held on the first Thursday after the first Monday in November, 1911, and every four years thereafter, at which shall be elected a Mayor and four Commissioners and a City Tax Assessor, who shall take their oath of office and qualify on December 31 following the date of their election.

Elections.

SEC. 49. *Be it further enacted*, That there shall be a subordinate officer, to be known as "Assistant Attorney," by and with the consent of the Board of Commissioners, who shall receive an annual salary of \$1,200, payable monthly. He shall hold office at the will of the City Attorney.

**Assistant
City Attorney.**

SEC. 50. *Be it further enacted*, That all Commissioners and elective officers hereunder shall be exempt from jury and military duty.

SEC. 51. *Be it further enacted*, That the word "Commissioner" or "Commissioners," as used in this Act, shall be construed as embracing the Mayor unless the contrary is plainly indicated.

SEC. 52. *Be it further enacted*, That all Acts and parts of Acts constituting the present charter of the city of Memphis, not in conflict with this amendatory Act, be, and the same are, continued in full force and effect, and all Acts in conflict herewith are hereby repealed.

SEC. 53. *Be it further enacted*, That this Act shall take effect for purposes of election and qualifications of the officers herein provided for from and after its passage and for all other purposes on January 1st, 1910, the public welfare requiring it.

Passed April 24th, 1909.

WILLIAM KINNEY,
Speaker of the Senate.

M. HILLSMAN TAYLOR,
Speaker of the House of Representatives.

Approved April 27, 1909.

MALCOLM R. PATTERSON,
Governor.



The Carnegie Foundation

CHARTER AND ANNUAL REPORT

SUBMITTED AT THE

ANNUAL MEETING

—OF THE—

GENERAL COUNCIL

—OF THE—

CITY OF MOBILE

MARCH 15, 1905

—————

MOBILE, ALA.
THE MOBILE PRINTING CO.
1905



CHARTER AND ANNUAL REPORTS

SUBMITTED AT THE

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GENERAL COUNCIL

—OF THE—

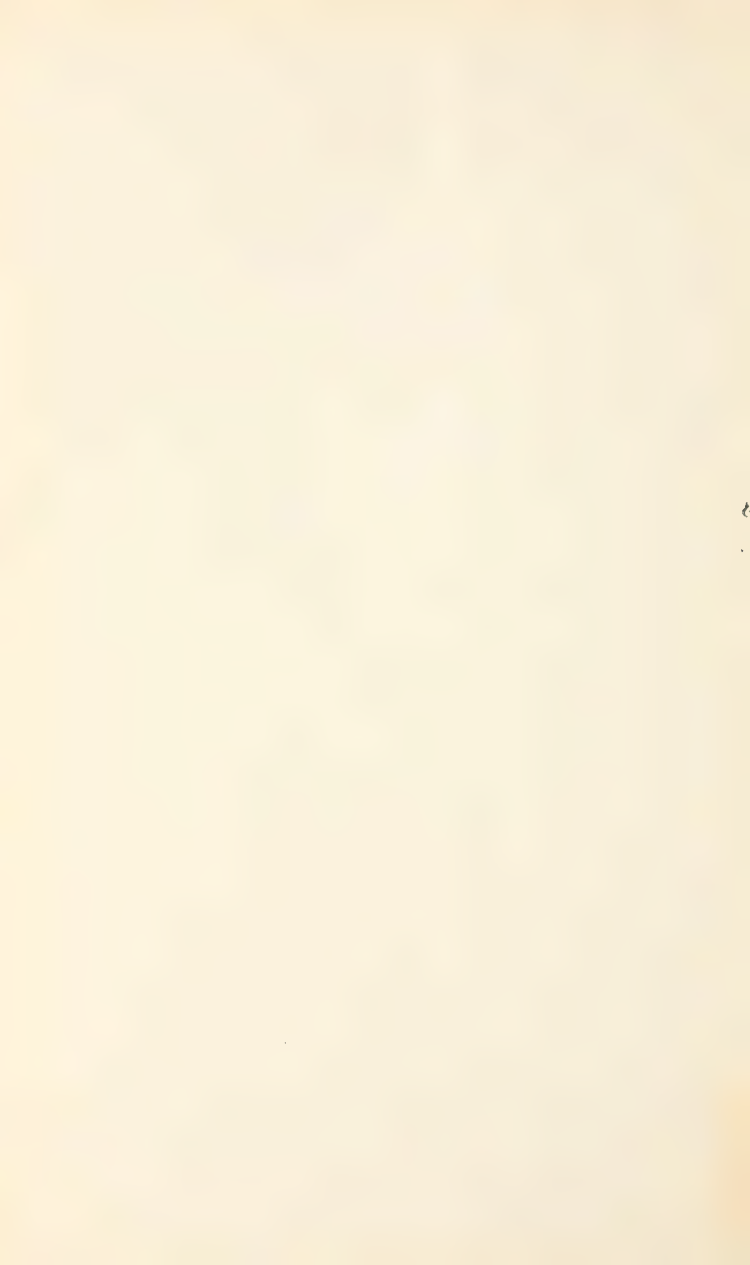
CITY OF MOBILE

MARCH 15, 1906



MOBILE, ALA.
COMMERCIAL PRINTING CO.

1906



CHARTER.

No. 1039½]

AN ACT

[h. 606

To provide a charter for the City of Mobile.

Section 1. Be it enacted by the General Assembly of Alabama, That the inhabitants residing within the following named boundaries, to-wit: Commencing at a point on the western margin of Mobile bay ^{Corporate limits} where the same would be intersected by the southern line of Tennessee street, if said street were extended eastwardly from Conception street in the same direction as now located, thence running westwardly along the southern line of the extension as aforesaid of Tennessee street to the point where the southern line of Tennessee street intersects with the western side of Conception street; thence westwardly along the southern side of Tennessee street to the western side of Lawrence street; thence northwardly along the western side of Lawrence street to the southern side of Virginia street; thence westwardly along the southern side of Virginia street to a point where the same would intersect with the western side of Catherine street if the same were extended southwardly from Government street in same direction as now located; thence northwardly to the western line of said Catherine street where the same intersects the north line of Government street; thence along the west line of Catherine street, as now located, to the northeast side of St. Stephens, or the New Creek road; thence by a line running northwardly in extension of said west line of said Catherine street to the right or south bank of Bayou Chetaugue, or Three Mile creek; thence down the said right bank to the northeast side of Davis avenue; thence eastwardly along the northeast side or line of Davis avenue, as located, to the west side of the street or lane known as Marmotte alley; thence along the west side of Marmotte alley northwardly to its intersection with the south side of Morgan

street; thence eastwardly along the south side of Morgan street to the left or north bank of Bayou Marmotte, and thence down said bayou along the north bank thereof to the Mobile river; thence due east to the west shore of Blakely island; thence south along the west shore of Blakely and Pinto island, and thence with the east channel line to a point in Mobile bay due east from said point on the western margin of said bay where the same would be intersected by the southern line of Tennessee street if said Tennessee street were extended as aforesaid; thence westwardly to the place of beginning, are hereby incorporated and made a body politic and corporate, under the name and style of "The City of Mobile," which shall be managed and governed as hereinafter provided. It may sue and be sued, buy and contract, and do its acts under that name, and may have and use a corporate seal.

Sec. 2. Be it further enacted, That the territory of the said corporation shall be divided into eight wards, to be designated as the First, Second, Third, Fourth, Fifth, Sixth, Seventh and Eighth wards, which shall be divided and bounded as follows, to-wit: The First ward shall commence at the intersection of the eastern and northern boundary lines of the corporation, thence running southwardly along the east boundary line of the city to the intersection with the center of St. Louis street extended, thence westwardly to and along the center of St. Louis street to its intersection with the center of Franklin street to its intersection with the north boundary of the corporation, thence along the said north boundary line eastwardly to its intersection with the east boundary line of the corporation, being the place of beginning. The Second ward shall commence at the intersection of the east boundary line of the corporation and the center of St. Louis street extended, thence running southwardly along the said east boundary line to its intersection with St. Francis street extended, thence westwardly to and

along the center of St. Francis street to its intersection with the center of Franklin street, thence northwardly along the center of Franklin street to its intersection with the center of St. Louis street, thence eastwardly along the center of St. Louis street extended to its intersection with the said east boundary line, being the place of beginning. The Third ward shall commence at the intersection of the east boundary line of the corporation and the center of St. Francis street extended, thence running southwardly along said east boundary line to its intersection with the center of Conti street extended, thence westwardly to and along the center of Conti street to its intersection with the center of Franklin street, thence running northwardly along the center of Franklin street to its intersection with the center of St. Francis street, thence eastwardly along the center of St. Francis street extended to its intersection with the east boundary line, being the place of beginning. The Fourth ward shall commence at the intersection of the east boundary line of the corporation and the center of Conti street extended, thence running southwardly along said east boundary line to the intersection with the center of Monroe street extended, then westwardly to and along the center of Monroe street to its intersection with the center of Franklin street, thence northwardly along the center of Franklin street to its intersection with the center of Conti street, thence eastwardly along the center of Conti street to its intersection with the said east boundary line, being the place of beginning. The Fifth ward shall commence at the intersection of the east boundary line of the corporation and the center of Monroe street extended, thence running southwardly along said east boundary line to its intersection with the south boundary line of the corporation, thence westwardly along said boundary line to its intersection with the center of Franklin street, thence northwardly along the center of Franklin street to its intersection with Monroe

- street, thence eastwardly along the center of Monroe street to its intersection with the east boundary line of the corporation, being the place of beginning.
- Sixth ward. The Sixth ward shall commence at the intersection of the south boundary line of the corporation and the center of Franklin street, thence running northwardly along the center of Franklin street to its intersection with the center of Dauphin street, thence westwardly along the center of Dauphin street as far as the intersection of Wilkinson street thence south along the center of Wilkinson street to the connection of said street with Washington avenue, formerly called Dog River road, and thence along the center of said avenue or road to the south boundary line of the corporation, thence eastwardly along the south boundary line to the west side of Lawrence street, thence southwardly to the Mobile bay, thence east to the intersection of the south boundary of the corporation with the center of Franklin street extended.
- Seventh ward. The Seventh ward shall commence at the intersection of the center of Dauphin and Franklin streets, thence running westwardly along the center of Dauphin street as far as the intersection of Spring Hill avenue, from which point continuing westwardly along the center of Spring Hill avenue to the west boundary line of the corporation, thence northwardly along said west boundary line to its intersection with the north boundary line of the corporation, thence eastwardly along said north boundary line to its intersection with the west side of Marmotte alley, thence along the west side of Marmotte alley to its intersection with the south side of Morgan street, thence along the north boundary of the corporation to the intersection with the center of Franklin street, thence southwardly along the center of Franklin street to its intersection with the center of Dauphin street, being the place of beginning.
- Eighth ward. The Eighth ward shall commence at the center of the intersection of Dauphin and Wilkinson streets and Spring Hill

road, and from thence run northwesterly to the western boundary line of the corporation, thence southwardly along the western boundary line of the corporation to the south boundary line thereof, thence along the said south boundary line of the corporation to a point where said line intersects with Washington avenue or Dog River road, thence north through the center of said Washington avenue or Dog River road to its intersection with the center of Wilkinson street, thence north along said center of Wilkinson street to the place of beginning.

Sec. 3. Be it further enacted, That the legislative ^{Legislative department} department shall be vested in a mayor and general council. The general council shall consist of the councilmen and aldermen as hereinafter provided. All applications shall be made to and all ordinances passed in the name of the mayor and general council. All resolutions, measures or proposed ordinances shall originate with the general council and their action shall be final. But, should the mayor dissent, the general council may pass such measure or proposed ordinance over his veto by a two-thirds majority. The city clerk shall keep the minutes of the meetings of said general council. Each member of the general council shall have the right in all cases to call for the yeas and nays and have the same recorded on the minutes. Ten members of the general council shall constitute a quorum of said general council. But in all cases a less number may adjourn from time to time and compel the attendance of absentees.

Sec. 4. Be it further enacted, That there shall be elected on the first Monday in March, 1903, seven aldermen for the city at large, who shall hold office for three years and until their successors are elected and qualified, and on the first Monday in March every three years thereafter seven aldermen at large shall be elected by the qualified voters of said city. ^{Election: aldermen at large,}

Sec. 5. Be it further enacted, That on the first Monday in March, 1903, and on the first Monday in ^{Election: councilmen,}

March every three years thereafter, eight councilmen shall be elected by the qualified voters and shall hold office until their successors are duly elected and qualified. One of said councilmen shall be elected for each ward in the city of Mobile.

Election:
city officers

Sec. 6. Be it further enacted, That there shall be elected on the first Monday in March, 1903, and on the first Monday in March every three years thereafter, in the manner hereinafter provided, a mayor, a recorder, a city attorney, a city engineer, a city clerk and a member or members of a board of public works as provided in section 66 of this act, said members of said board of public works and their successors being elected as provided in section 66 of this act. All of said officers except the board of public works shall hold office for three years and until their successors are elected and qualified, and in the event that any of said offices shall become vacant by death, resignation, removal or otherwise, the general council shall fill such vacancies for the unexpired term, with the exception of the office of mayor and board of public works, which is hereinafter provided for. Said recorder shall be learned in the law and a practicing attorney at the time of his election, and shall have an adequate salary, to be fixed by the general council preceding his election, not to exceed fifteen hundred dollars per annum, payable in monthly installments, which salary shall not be changed during his term of office. The general council shall elect some suitable person as recorder pro tem., who shall, in case of sickness, absence, inability or interest of the recorder, perform the duties of his office, and shall receive the salary of the recorder for the period of time or the number of days he acts as recorder. The duties of the city engineer shall be prescribed by the general council, and in the performance of such duties as may be defined by the general council the city engineer shall be under the direction and control of the mayor of said city. In the event that the office

Recorder

City engineer

of mayor shall become vacant by death, resignation, ^{Mayor,} removal or otherwise, the mayor pro tem. shall be and act as mayor during the remainder of said term, and as such shall exercise all the rights and powers of mayor during the said term, and as such shall receive the salary for the time or number of days he so acts as mayor. Then and in such case the general council shall fill the vacancy occasioned in said general council by reason of the mayor pro tem. becoming the mayor of the city by the election of some one else to fill his place as member of said general council. In such event the general council shall also elect one of the members of said general council to fill his place as chairman, to preside at the meeting of said general council and also to be mayor pro tem. It is further provided that, in the event the mayor pro tem. shall be acting as mayor of the city at the time of any meeting of the general council, then in such case the general council shall elect one of their number as temporary chairman, to preside at the meetings of the general council until the chairman is relieved from acting as mayor.

Sec. 7. Be it further enacted, That the mayor ^{Mayor's salary} shall be the chief executive of said city. He shall have an adequate salary, to be fixed by the general council preceding his election, not to exceed eighteen hundred dollars, payable in quarterly installments, which shall not be changed during his term of office. He shall have power to convene the general council in extra session whenever, in his judgment, the exigencies of the case may require it. ,

Sec. 8. Be it further enacted, That the mayor ^{Veto.} shall have one week after the meeting of the general council in which to file with the clerk in writing his dissent from any action of the said general council, but the general council may, in the manner prescribed by this charter, pass any ordinance or resolution, notwithstanding the veto, by a vote of two-thirds, to be taken by yeas and nays and entered on the minutes,

Police. Sec. 9. Be it further enacted, That the mayor shall appoint a chief of police, subject to confirmation by the general council, and such a number of policemen as may be designated by the general council; and the chief and policemen so appointed shall be subject to his control in discharge of their duties, and may at any time be suspended or removed by him for incompetency, misconduct or neglect of duty, and may also be removed from office by two-thirds vote of the general council. The city authorities and said police force shall have jurisdiction for two miles beyond the city limits, at Arlington Fair Grounds and at Monroe Park, for preserving the peace and making arrests.

Oath. Sec. 10. Be it further enacted, That the mayor, before entering on the discharge of the duties of his office, shall take and subscribe to the following oath before the judge of the circuit court or justice of the peace: "I, (A. B.), do solemnly swear that I will to the utmost of my ability discharge the duties of mayor for the city of Mobile during my continuance in office, so help me God." He shall, after being so qualified, have full power and authority to administer the oath of office to each member of the board of general council.

Chairman of Council. Sec. 11. Be it further enacted, That the general council shall elect from their number a chairman, whose duty it shall be as such chairman to preside at the meetings of the general council. Such chairman shall also be mayor pro tem., and shall, in case of sickness, absence, inability or interest of the mayor, perform the duties of the office of the mayor. In case of similar disability of the mayor pro tem. at the same time with the mayor, such member of the general council shall act as may have been delegated by the mayor for that purpose.

Qualifications for office. Sec. 12. Be it further enacted, That the mayor and recorder herein provided for, aldermen and councilmen, must, at the time of their election, reside in the city of Mobile and be qualified electors there-

of, and each councilman must reside in the ward for which he is elected and be a qualified elector in such ward. Said mayor, recorder and each of said aldermen and councilmen shall be elected by the qualified voters of all the wards in the city of Mobile, voting in the wards of their respective residences. If said mayor, recorder, councilmen and aldermen should cease to reside within the city of Mobile during the term for which they were elected, they shall thereby cease to hold their office, and the vacancies thereby occasioned shall be filled as hereinbefore provided, and the appointees shall hold for such unexpired term. Should any councilman cease to reside in the ward for which he was elected during his term, his office shall become vacant thereby, and the vacancy shall be filled for the remainder of the unexpired term by the general council as provided. On the first Monday in March, 1903, and on the first Monday in March every three years thereafter, a tax collector shall be elected in the same manner as is provided in this act for the election of mayor, recorder, city attorney, city engineer and city clerk. Said tax collector must at the time of his election reside in the city of Mobile and be a qualified elector thereof. He shall hold his office for a term of three years next following the date of his election and until his successor is duly elected and qualified. And if such tax collector cease to reside within the corporate limits of the city of Mobile during his term for which he was elected, he shall thereby cease to hold his office, and the vacancy thereby created shall be filled by the general council, and such appointee shall hold for such unexpired term. The general council which may be in existence at the time provided for election of city officers shall appoint three inspectors of the aforesaid election and one returning officer for each polling place in the said wards, who must be residents of the ward for which they may be respectively appointed. Said general council must also provide for the opening of one polling

Tax Collector.

Elections.

Elections.

place for voters at said elections in each of said wards. And it may provide for the opening of two distinct boxes and offices at the polling places in the Sixth, Seventh and Eighth wards if it deems that necessary. The mayor shall give ten days' notice by advertising in some newspaper published in the city of Mobile of the time and place of holding said election and of the inspectors and returning officers of said respective wards. He shall also cause to be made duplicate copies of so much of the registration list of the county of Mobile as may embrace the registered voters who reside within the corporate limits of the city of Mobile, dividing the same into separate alphabetical lists of the registered voters of each ward. He shall compare such copies with the original registration lists and correct the same so that they shall be accurate, and certify on each that it is a correct list of the registered voters for the ward it appertains to. He shall have free access to said registration lists for this purpose. One of each of said duplicates shall be filed with the clerk of said corporation, where it shall remain as a record of his office; and on or before the day of election, and before the opening of the polls, he shall furnish the inspectors for the respective wards with a copy of the list of registered voters of the ward for which such inspectors were appointed. It shall be the duty of the chief of police of the city of Mobile and of the sheriff of Mobile county to preserve strict order at such elections and see that the laws governing elections in this State are enforced. Said elections shall be conducted according to the laws of the State respecting the election of State and county officers except as otherwise provided in this act. No person shall be entitled to vote at said elections unless he possesses the qualifications mentioned in the constitution of the State, nor unless he shall have resided fifteen days within the ward in which he proposes to vote, and is a registered voter in such ward. Said inspectors at the several polls shall, immediately on

the closing of the polls, proceed and count the ballots, compare them with the poll lists at their respective polls and certify the results of the election in their respective wards to the mayor. They shall enclose the ballots cast in their respective wards ^{Elections.} with the poll and registration lists and their certificates of said results in the box wherein the ballots cast at said election were placed, and, after fastening and carefully sealing said box, they shall deliver the same, with its contents, to the returning officer of their ward, and the same shall immediately be delivered by him to said mayor, who shall give such returning officer his receipt for the box, stating therein its condition when received; said mayor shall convene said general council as soon thereafter as practicable; said general council, within one day from the time it is so convened, shall, in public, open said boxes, and, by a count of the ballots (a comparison thereof with the polls and registration lists if necessary) and the certificates of said inspectors, verify and, if necessary, correct said certificates of the inspectors for the several polls, and declare accordingly the election to their respective offices of the persons who may have received the largest number of legal votes cast for said respective offices. Thereupon the mayor shall give to the persons so declared elected certificates of election to the offices to which they have been declared elected. Said certificates shall entitle the persons receiving them to the possession of the office designated in the certificate, and such persons respectively shall take possession of the offices designated in their respective certificates on the second Monday next following after that of their election, and at 12 o'clock meridian of that day, or as near thereto as practicable; but such persons shall severally take the oath of office prescribed by the constitution of the State as herein provided. Should two candidates for the same office receive an equal number of votes, the members of the retiring general council shall determine by ^{Tie.}

ballot which of the two shall have the office, and thereupon the mayor shall give the one so elected a certificate of his election as above provided, which shall entitle the party receiving it to the office specified in the certificate. Said general council must cause the ballots cast in the several wards at such elections to be carefully sealed up and preserved, with such poll and registration lists, for fifteen days after the election in which said ballots were cast; after said fifteen days have expired said mayor shall cause said ballots to be burned in his presence unless a contest of election shall have been instituted in the manner provided by the laws of Alabama for the contestation of elections and notice thereof in writing served on said mayor before the lapse of fifteen days. Should a contest be instituted and notice thereof given to said mayor within the time stated, he shall cause said box and contents, duly sealed, to be delivered to the judge in whose court the contest may be pending. The expenses of the election authorized by this act shall be paid by said general council in the same manner as other expenses are paid.

Contest.

City Clerk.

Sec. 13. Be it further enacted, That the city clerk shall keep a true and faithful record of the proceedings of the general council, the books of said corporation and a file of its papers and documents, all of which shall be open to public inspection, and he shall also perform such other duties as may be required of him by said general council.

Officers elected
by council.

Sec. 14. Be it further enacted, That all persons holding office under elections by the general council shall be elected at the first meeting held in the month of March after the regular election by the general council which was elected at such regular elections, or as soon thereafter as practicable, but subject to removal for cause at any time by a two-thirds vote of the general council. And any of said officers may at any time, for incompetency, misconduct or neglect of duty, be suspended by the mayor for not longer

than sixty days, or for incompetency, misconduct or neglect of duty be removed from office by the mayor and with the approval of a two-thirds vote of the general council.

Sec. 15. Be it further enacted, That there shall ^{Officers.} be elected by the general council, at the time prescribed herein for the election of city officers, a chief and assistant chief of the fire department, a clerk of markets, a committee clerk, a license officer, a city sexton and a keeper of Magnolia cemetery, who shall also care for the Church street cemetery if required by the general council so to do, who shall each hold office for three years unless sooner removed for cause by the general council. Said officers and city clerk, city attorney and city engineer shall receive the following annual salaries, payable in equal monthly installments, viz: Chief of fire department, fifteen hundred dollars; assistant chief of fire department, twelve hundred dollars; clerk of markets, nine hundred and sixty dollars; committee clerk, one thousand and twenty dollars; license officer, eleven hundred dollars; city clerk, twenty-one hundred dollars; city engineer, twelve hundred dollars; city attorney, eighteen hundred dollars; the city sexton and keeper of Magnolia cemetery shall each receive such fees or other compensation as may be fixed by the general council, not to exceed those now received by them, respectively. The duties of such officers so far as ^{Duties.} not set forth in this act shall be prescribed by ordinance. No one of them shall receive any additional compensation for any services rendered by him, except as hereinafter provided by the mayor. Before entering upon the discharge of the duties of their respective offices, each shall take an oath before ^{Oath.} some officer authorizd to administer oaths faithfully to perform the duties of his office. All of said officers and the chief of police and all other officers and employees of the city government, when the general council deems it necessary, shall enter into bond for the faithful performance of the duties of their re-

spective offices with a guaranty company authorized by law to execute official bonds in this State as surety thereon; provided, that such bond of such guaranty company shall guarantee against and indemnify for any loss or damage that may arise from the negligence, carelessness or malfeasance in office, of the officer or employee entering into such bond; each such bond shall be payable to the city of Mobile, in an amount to be fixed by the general council, and shall not be accepted until approved by such general council. Any officer or employee may be required by the general council to give an additional bond, to be fixed and approved by it, whenever it may deem that further security in amount or surety should be required of him. A failure to give such additional bond within ten days after notice so to do shall vacate the office of the person so required; provided, that the general council may extend such time at its discretion. The mayor shall appoint on the first Monday in March, and every six months thereafter, an expert accountant, who shall make an examination in detail of all books and accounts of the city officials to cover a period of six months immediately preceding such examination, and make a full report thereof in writing, under oath, to be read by him to the general council at its first meeting after the completion of said report, and the same shall be spread upon the minutes of said general council; provided, that the same person shall not be appointed or authorized to make such semi-annual examination twice in succession, and for his services said accountant shall not receive more than seventy-five dollars for each semi-annual examination. The chief of the fire department shall, by and with the approval of the mayor, employ such firemen and laborers as may be necessary to secure an efficient fire department. The office of clerk of markets may be abolished at the discretion of the general council.

Sec. 16. Be it further enacted, That the tax collector may at any time be removed by the general

Bond.

Expert accountant.

Firemen and laborers.

Market clerk.

TaxCollector.

council for inefficiency or other cause deemed sufficient by two-thirds of the general council upon a recorded vote. He shall collect all taxes and licenses, charges or license tax as provided by this act and by the ordinances of said general council. His salary shall be one hundred and fifty dollars per month, payable at the end of each month, and he shall enter into bond and security as the said general council may prescribe and approve.

Sec. 17. Be it further enacted, That the recorder ^{Recorder.} shall be a conservator of the peace in and for the county of Mobile. He shall have power to examine and commit to bail or discharge all persons charged with criminal offenses. He shall also have jurisdiction for final trial of all misdemeanors arising within the corporate limits of the city of Mobile, which are within the criminal jurisdiction of the justices of the peace under the general laws of the State; provided, however, that all persons arraigned before said recorder charged with any misdemeanor may demand a trial by jury; whereupon he shall require every such person to enter into bond with sufficient surety in an amount to be fixed by said recorder for his or their appearance at the inferior criminal court of Mobile county, or the city court of Mobile. He shall hold a court once in each day in the week, Sundays and legal holidays excepted, at a place to be determined, fixed and furnished by the general council for the trial of all persons charged with offenses committed under this act, or with a breach of disobedience of any by-law or ordinance that may now legally exist or that may be hereafter enacted or adopted under the authority of this act.

Sec. 18. Be it further enacted, That the recorder ^{Recorder's court.} within the limits of his jurisdiction may issue his process as recorder for a violation of the ordinances of the city of Mobile, and as justice of the peace for violations of the laws of the State on complaint made to him by any person of an offense committed within his jurisdiction, but when a criminal offense

Recorder's
court.

under the State law is complained of, such complaint must be made under oath. Such process shall be authorized and required to execute the same, but in offenses against the laws of the State it may also be addressed to any lawful officer of the State, and in such case it must be executed by any such lawful officer. Upon such process the alleged offender shall be brought before said recorder, who shall issue subpoenas for such witnesses as the accused or the person making the complaint may wish subpoenaed, or as justice may require, and he shall examine the witnesses who may appear for and against the accused and try such party and give judgment as may appear legal and just. If such a party be dissatisfied with the judgment so rendered, he, she or they may appeal to the city court of Mobile or to the inferior criminal court of Mobile county upon entering into bond in such reasonable sum as the recorder may deem just, with two good and sufficient sureties to be approved by said recorder. Such bond shall be conditioned that defendant shall appear at the next term of the court to which the appeal is taken and from term to term until discharged by law, and in all cases of violation of the ordinances of said city must be made payable to the city of Mobile. The proceedings on the appeal shall be such as are prescribed by law in other cases of appeal. In appeals taken from the judgment of said recorder for violations of ordinances of the city of Mobile, if the defendant is convicted in the court to which the appeal is taken, and he does not presently pay the sum assessed by the jury as damage or penalty and the cost of the appeal, the judge of the court to which the appeal was taken shall sentence the defendant or appellant to hard labor for the city of Mobile, not to exceed three months, and shall, by an order entered upon the minutes of the court, order the sheriffs to take the appellant into custody, and, without committing him to the county jail, deliver him to the proper authority of the city

of Mobile to perform such sentence of the court. In offenses against the laws of the State within the jurisdiction conferred upon him by section 17 of this act, the recorder may fine and commit to prison and also commit to prison or sentence to hard labor for the county of Mobile in the same manner that the inferior criminal court of Mobile county or the city court of Mobile are authorized by law to do; and for breaches of the ordinances of the city of Mobile he may fine and commit to prison and also commit to prison or sentence to hard labor for the city of Mobile for the non-payment of fines and costs as hereinafter more particularly provided.

Fines and
forfeitures.

Sec. 19. Be it further enacted, That all fines and forfeitures adjudged against any person or persons by said recorder in the exercise of the jurisdiction conferred on him may be enforced and collected by execution against such person or persons and be levied on his or their effects and property. Such execution shall be issued by such recorder and directed to any police officer of the city of Mobile and by him executed. Except as to the address of such execution and the person charged with their enforcement, they shall in all respects conform to and be governed by and be executed according to the laws regulating executions issued by justices of the peace in this State. Whenever the recorder may impose any fine or penalty under the provisions of this act, or under any ordinance authorized by it, he may also enter judgment and sentence that, if said fine or penalty be not paid promptly, the party on whom the same is imposed shall be imprisoned at the expense of the city or put to hard labor for use of the city of Mobile as may be prescribed by the ordinances of such city for such time as the recorder may deem just and right, but within the limitation provided by this act or under its authority. If such fine or penalty be not paid promptly, he shall, by his warrant, commit such party, according to the judgment and sentence, to such jail or

guardhouse as may be provided by said general council, or the custody of such persons as may be charged by said general council with the custody of persons condemned by the recorder to hard labor. The recorder shall not set aside or reduce any fine or other imprisonment imposed by him upon the conviction of any person without spreading all his reasons therefor, signed by him, upon the docket or other record of his court, and he shall make a written report thereof, accompanied by a certified copy of such statement of his reasons to the general council within two days thereafter.

Powers of
council.

Sec. 20. Be it further enacted, That the general council shall have power to rent or purchase all such real estate or personal property as may be necessary and to employ such clerical force as may be necessary for the proper discharge of their duties, as may be determined by a recorded vote of two-thirds of the general council, and they shall have and exercise full police powers within the limits of the city of Mobile. It shall be their duty at all times of the day and night, within such limits, to preserve the public peace. And its mayor or acting mayor or the general council itself is authorized to call out the military companies in the said city of Mobile to aid in so doing whenever he or the general council may deem the same necessary. It shall also be their duty to prevent crime and arrest offenders, to protect the rights of persons or property, to guard the public health, to preserve order, to establish and keep open and in proper repair all sewers necessary to the convenience and health of the citizens, and, if necessary, it may extend such sewers beyond the city limits. To cause to be removed all nuisances that may exist, or things likely to become such, from the streets, roads, sidewalks, alleys or other places in the aforesaid limits, to see that the streets, thoroughfares and other public places are lighted at night, to provide a proper police force at all fires for the protection of persons and property, and also at

steamboat and other landings and at railway stations or depots for the protection of travelers and others, and to make and enforce regulations for the proper police of said city of Mobile and its government.

Sec. 21. Be it further enacted, That its duties ^{Powers.} may be efficiently performed, said general council shall have full power and authority to make and adopt and declare by-laws or ordinances not in conflict with the laws of this State or the United States, and, the better to effectuate this, the chairman elected to preside over the meetings of the said general council shall have authority to appoint from the members of the general council committees upon all legislative questions and other matters as he may deem necessary, said committees to report the result of their consideration to the general council, and the said by-laws or ordinances adopted by the general council as above provided for shall have force and effect in said city of Mobile for and concerning the several matters mentioned in this section, and therein to provide and declare such fines, penalties and forfeitures, imprisonment and hard labor within the limitations and restrictions hereinafter provided as they may deem appropriate, and any person or persons violating or disobeying such by-laws or ordinances may be punished therefor as provided in such by-laws or ordinances upon conviction thereof before said recorder, who shall have jurisdiction and cognizance of such matters, that is to say, said general council may make, ordain and declare such by-laws and ordinances for and concerning the prevention and removal of nuisance and the prevention and extinction of contagious and infectious diseases, and in giving effect to these powers they are to act in co-operation with the board of health and delegate to said board such executive authority as the general council and said board of health may mutually agree upon concerning the lighting of the streets, avenues and public places, the licensing and

Powers.

regulation of retail liquor dealers and of hackney coaches, carriages, wagons, hacks and drays, the regulation of pawnbrokers, the restraint or prohibition of gambling, the regulation of theatrical and other entertainments and amusements, the establishment, regulation and management of markets, the construction, repair and regulation of sewers, pipes and appurtenances thereto, or thereunder. They may also make ordinances concerning rights-of-way and regulations of street cars, street railways and other railroads and their stations, the storing and handling of gunpowder, dynamite, oil and other inflammable and hazardous substances, the regulation of weights and measures, and may establish and regulate magazines within or without the city and may own and regulate property inside or outside of its limits for magazines, pest houses, quarantine and other purposes. They may also make such ordinances concerning the establishment and regulation of fire wards, fire companies and fire departments, the establishment and regulation of fire limits, the sinking and repairing of wells, erection and repairing of pumps, the removal or pulling down of houses, fences and other structures, to prevent the spread of fire and to extinguish the same, the regulation of partition and other fences and of partition and other walls, the prevention of disorderly assemblies and houses, and establishment and discontinuance and regulation of city cemeteries, whether within or without the city limits, the regulation of the burial of the dead therein, and the prohibition of such burial within the city limits or within two miles thereof except in such cemeteries; and the general council may also pass such by-laws and ordinances as may require vagrancy, idleness, disorderly or dangerous and suspicious persons, all persons of evil life or ill fame, and such as have no means of support, or are likely to become chargeable to the city of Mobile, or to Mobile county, as paupers, all persons found drunk in or about the

streets or loitering in or about tippling houses, or who can show no reasonable cause for not having an occupation or employment or business, or who ^{Powers.} have no fixed place of residence, or who can not give a good account of themselves, all such as may be grossly indecent in language or behavior publicly in the streets, and all prostitutes or such as lead a notoriously lewd or licentious course of life, to leave the city or pay a fine not exceeding fifty dollars, and said general council may provide, upon their failure or refusal to pay such fine or leave the city, for their condemnation to labor under the direction of the said general council for a limited time, not to exceed three calendar months, unless such bond and security shall be given sooner; provided, that no fines or penalties imposed by such ordinances or by-laws shall exceed fifty dollars for any offense, and provided, further, that any person failing to pay any fine or penalty imposed on him under and by authority of this act may be sentenced to hard labor for such reasonable time, not exceeding three calendar months, for any one offense, as may be by the recorder deemed equivalent in punishment to such fines and penalties and the cost of the case, considering also the cost of keeping and maintaining such persons; any person fined on whom a penalty is imposed, however, shall have a right to give a stay bond, with sureties to be approved by said recorder, to pay such fine or penalty, with costs, within thirty days from the rendition of the judgment and sentence imposing the same, but if, after such bond and security, such fine or penalty and costs be not paid within said thirty days, or if any appeal bond be not properly paid after the judgment against the appellant, then execution for the collection of the same may be issued against the obligators in the bond, and no property shall be exempt from sale under such execution.

Sec. 22. Be it further enacted, That no claim ^{Suits, against} against the city of Mobile, whether arising ex con- ^{the city.}

tractu or ex delicto, shall be sued on until a statement thereof giving date of actual name and residence of original claimant and of assignee, if any, circumstances and amount claimed shall have been filed with the city clerk for the consideration of the general council and either rejected by them or held by them for sixty days without action.

Right-of-way
on streets

Sec. 23. Be it further enacted, That the city authorities shall not grant any right-of-way over or right to use any street or public way or part thereof, except to the person or corporation offering the highest percentage of gross annual receipts to be derived from the business so using the right-of-way or street or public place during the term thereof, after deducting from such receipts only the taxes paid by reason of such use; provided, that when, in the judgement of said general council, a percentage compensation is not practicable, there shall be enacted and collected by the city an annual lump sum for such privilege. No such privilege shall be granted until publication of application therefor has been made in some newspaper, and proposals of percentage or annual lump sum, as the case may be, shall have been filed in writing with the city clerk and opened by the clerk in presence of the mayor and chairman of the general council. In order to ascertain the amount of compensation due the city by such person or corporation under the provisions of this section, a sworn statement shall be made by such person or some proper representative of such corporation annually, on the first day of April, showing the gross income derived from such franchise, giving in detail the sources thereof and the deduction claimed for taxes actually assessed and collected, and the city clerk or the person designated by him shall have free access to all the books, papers and documents of such person or corporation. All privileges, rights or franchises hereinafter granted and used otherwise than in accordance with the terms of this section shall be null and void.

Sec. 24. Be it further enacted, That the general council shall have the power to establish and declare by ordinance a designated line along the river front, within the corporate limits of the city of Mobile, beyond which wharves or other constructions shall ^{Wharves.} not be erected or extended after the passage of said ordinance, unless the legislature has created or shall create an harbor or dock commission, clothed with the power of regulating wharf and boom lines in that portion of Mobile river, in which case the power of the general council in the premises shall be suspended as long as said commission is clothed with such power ; provided, however, that such ordinance shall not affect any wharves or construction then already established. It shall also have power to determine and declare by ordinance to what extent and in what manner wharves or other construction along said river front shall be built or erected, and when and with what kind of material the same may be filled in. They shall also have the power to pass ordinances to enforce obedience to all lawful orders of the harbormaster and wardens of the port of Mobile, or to those of said wardens or those of any number of the persons named who are authorized to act and give such orders, and it may provide in such ordinances any punishment for breaches of said ordinances as may be prescribed by said general council for violation of the ordinances authorized by it. The recorder shall have jurisdiction to hear and determine all charges or complaints made of violation of such ordinances and to punish the same as provided in such ordinances, and to enforce such punishment, just as he is authorized to hear and decide charges for the violation of other ordinances of said city of Mobile and to punish for violation of the same. Said general council may abate any nuisance on or along said river front.

Sec. 25. Be it further enacted, That the duties of ^{Police force.} said mayor and general council shall be more especially executed, except as other provided, by a police

force, which shall be under the direction and control of the mayor, and it shall be composed of such number of officers and men as said general council may deem necessary for the proper execution of the powers vested in said city. In case of emergencies or threatened riots, special policemen may be appointed, but not for a longer period than three days at a time.

Salaries

Sec. 26. Be it further enacted, That said general council, from time to time, shall fix the salaries and pay of such police officers and men (which pay and that of other city officers shall not be subject to garnishment), and shall promptly, at the end of each month, apply and pay so much of the funds prescribed by the act as may be necessary to pay such officers and men, and shall issue warrants for the same; said general council is also authorized to adopt, from time to time, rules and regulations for the proper government and discipline of subordinate officers and employees, and the duties of the police force shall be executed in accordance therewith.

Oath of office.

Sec. 27. Be it further enacted, That each member of the general council and every officer in the service of the general council shall take and subscribe an oath or affirmation to support the constitution of the United States and the constitution of the State of Alabama, and to faithfully and honestly discharge the duties of his office. This oath or affirmation may be administered by any officer authorized by law to administer an oath, and it shall be taken before such members of the general council, or other officer, shall enter upon the duties of his office, and it shall be filed with the said clerk.

Taxes.

Sec. 28. Be it further enacted, That, in order to defray the expenses of carrying out the provisions of this act, said general council is authorized and empowered to levy and collect for each year upon all real and personal property and all subjects of State taxation within said city of Mobile, except the tax levied on polls, a tax not exceeding six-tenths

of one per cent. of the value of such property or subjects of taxation as assessed for State taxation during the year preceding that for which said general council may assess and lay the tax above provided for.

Sec. 29. Be it further enacted, That the taxable ^{Tax assessor.} property of each tax payer, and the subjects of taxation on which he is taxable, and the amount of value of each item or items thereof, as valued by the assessor of Mobile county for the preceding year (mentioned in section 28), shall be ascertained and fixed by the aforesaid tax assessor's book of such year, made by him under the requirements of the general revenue laws of the State, and any supplemental assessments that may have been made for each year and corrected, all as provided by such general revenue laws.

Sec. 30. Be it further enacted, That said general ^{Assessor's} council shall cause a copy of so much of said tax ^{books.} assessor's book as embraces the assessed property and subjects of taxation in the city of Mobile corrected as aforesaid for such preceding year to be made and entered in a bound book properly prepared for that purpose; but, when the property or subjects of taxation have changed owners since said assessments on it were made by said tax assessors, said copy shall be corrected as to show its true owner at the commencement of the year for which the tax provided for in this act is to be laid, and so as to show against whom the tax on each is laid. If the property or subject of taxation has since such assessment been destroyed or greatly damaged by fire or other cause, this also shall be noted, with the estimated amount of damage, which shall be deducted from the assessment.

Sec. 31. Be it further enacted, That, as soon as ^{Duty of clerk.} the book provided for in the preceding section is made and corrected, it shall be filed with the clerk of the said general council, where it shall remain for twenty days open to public inspection, and no-

tice of that fact shall be immediately given by said clerk by the publication of a notice to that effect for ten consecutive days in some newspaper published in said city of Mobile. Any person charged in said book as the owner of any property or subject of taxation which he was not the owner of on the first day of January of the year for which the tax therein provided for is to be laid, shall, within said twenty days, file with said clerk his affidavit to that effect, and, if he knows who the owner is, he shall state that fact, or that he does not know. Any tax payer may also file objections to the correctness of said book as a copy of the aforesaid books of the tax assessor of Mobile county, designating wherein such copy does him injustice. Upon notice by the clerk of said board that such objections have been filed, said general council shall meet and hear and decide all such objections, and correct said book accordingly, and their decisions in such objections and as to all corrections to be made shall be final. The general council may also, of their own motion, correct any errors of ownership as aforesaid, but in no event shall it change such valuation except in case of deterioration, provided for in the preceding section. The general council shall continue their sessions from day to day until all objections so filed are disposed of.

Objections.

Tax levy. Sec. 32. Be it further enacted, That, as soon as practicable after the lapse of said twenty days, said general council shall lay and levy for the current year the tax authorized by section 28 of this act on all the property and subjects of taxation so listed and undervalued in the book mentioned in sections 30 and 31 of this act corrected as aforesaid.

Tax Lien. Sec. 33. Be it further enacted, That the taxes levied under this act shall have the force and effect of a judgment at law against the person assessed therewith, and for said taxes the said city of Mobile and the general council shall have a preference over all encumbrances and securities whatsoever (except

county and State taxes), and all taxes assessed against the property or subjects of taxation of any person or persons under this act, or for which such person may become liable for the current year, shall be a lien upon the real and personal estate of such persons within said city of Mobile from the first day of January of that year, or, if brought into the city after that time, that lien shall attach from the day it is brought in.

Sec. 34. Be it further enacted, That, after the said taxes shall be so fixed and levied, the mayor shall certify the same at the end of said tax book and append thereto his warrant, directed to the tax collector of said city of Mobile, authorizing and commanding him to collect the taxes so levied, and shall deliver said tax book and warrant to said tax collector, and the said tax collector shall thereupon forthwith notify the public by advertisement for thirty days in some newspaper published in the city of Mobile that he is ready to receive payment of the taxes so levied.

Sec. 35. Be it further enacted, That, after thirty days have elapsed for the publication of such notice, the said tax collector or his deputy shall make a personal demand upon delinquent tax payers wherever they may be found for the amount of their taxes and costs, and whenever unable to find them shall leave a written or printed notice at the place of residence of such tax payers, requiring them to come forward and pay such taxes and costs immediately, and for giving such notice the tax collector shall collect fifty cents; and it shall be the duty of such delinquents forthwith to make payment in full of their taxes and fees to the tax collector at his office, but no demand or notice shall be necessary to tax payers who are non-residents of said city.

Sec. 36. Be it further enacted, That the tax collector of said tax shall be charged with and be accountable for the whole amount of the assessed taxes for the year, and he shall only discharge himself

from such accountability by showing that the amounts unpaid could not have been collected by the exercise of the means given him. He shall issue garnishment process for collection of taxes and license as on judgment returnable to any court having jurisdiction of the amount.

Delinquents.

Sec. 37. Be it further enacted, that all taxes levied under this act which are not paid at the end of ninety days from the date of the first publication of the notice required by section 30 of this act shall be in arrears and delinquent from that date; upon all taxes paid in advance of such date, an abatement shall be allowed of one per cent. per month on the amount of such tax for each and every month so paid in advance, and upon all taxes which shall be delinquent and unpaid on the aforesaid date a penalty of one per cent. on the amount thereof shall be added on the first day of each month subsequent to such date of all such taxes as may then remain delinquent and unpaid, to be collected as said taxes are authorized to be collected.

Levy.

Sec. 38. Be it further enacted, That, after the expiration of ninety days from the first publication of the tax collector's notice aforesaid, the tax collector may levy upon and seize any personal property, if there be any, and if there be none, or not sufficient personal property, then upon the real estate of such delinquent tax payer; provided, however, that a failure to levy on and sell any personal property for taxes shall not vitiate the sale of real estate of any delinquent tax payer and the cost of such sale, and no personal property so sold for taxes shall be subject to redemption. But, when real estate is levied on, notice of the sale shall be given ten days before the day of sale in some newspaper published in the city of Mobile, and a copy of such newspaper containing the notice shall be filed in the tax collector's office. The land may be described by such numbers and abbreviations as will clearly indicate the property to be sold. The sale shall be at

the court house of Mobile county, and commence on the day indicated in the notice, and the sales may be continued from day to day until completed.

Sec. 39. Be it further enacted, That all sales by Tax sales. the tax collector of property for taxes, he shall attend and bid off, in the name of and for the city of Mobile, as purchaser, all the lots and lands on which the tax collector can not get a bid from other persons to the amount of taxes and expense of sale, and the said city of Mobile shall have a certificate of purchase, and to be vested with all the titles to the property so bought in, subject to the right of redemption hereinafter provided. When any real property shall be sold by the tax collector for the non-payment of taxes, he shall give the purchaser at such sale a certificate to the following effect: I, _____, tax collector of the city of Mobile, do hereby certify that the city taxes for the year 19— (or particular tax assessment, as the case may be), amounting in all to \$_____, being due and unpaid by (A. B.) the owner or agent thereof, I have this day sold for the payment of taxes due by the said (A. B.) and for the collection of costs and of levy and sale to (C. D.), who has paid the amount of taxes due as above, the following piece, parcel or lot of land, lying in the city of Mobile, and bounded and described as follows: (Insert description of land so as to clearly designate it). By virtue of the power vested in me by law, I do hereby authorize the said (C. D.) to have and to hold the above described lands and tenements until the same shall be redeemed according to the provisions of this act. In witness whereof I have hereunto set my hand and affixed the seal of this corporation, this _____day of_____, 19—. (A. B.) tax collector. Any real property sold under the provisions of this act may be redeemed by the owners of any person interested therein, within two years after said sale, by paying to the city of Mobile the amount of purchase money, all subsequent taxes and costs that may have been

Right to
redeem.

Certificate.

paid by the purchaser, and interest at the rate of fifteen per cent. per annum, and thereupon shall receive a certificate of redemption therefor. It shall be the duty of said tax collector to keep in his office a book provided for that purpose, and conveniently indexed, a record of all certificates of purchase issued by the tax collector, and when any real estate shall be redeemed as hereinbefore provided, it shall be the duty of said tax collector to note such redemption on such records, and when the purchaser or his assignee shall demand the money paid on such redemption, shall pay the same to such purchaser or assignee upon the surrender of the certificate of purchase, and upon his failure to do so, the said tax collector and his bondsmen shall be responsible to the person entitled to such redemption money. Said tax collector shall give to the person redeeming any real property a certificate of redemption, signed by him, setting forth the facts of the sale, substantially as contained in certificate of sale, the date of redemption, the amount paid, and by whom redeemed, and such certificate shall be prima facie evidence of the facts therein stated. The said tax collector shall make such report of redemption of property as the said corporate authorities may require. After the expiration of the term of two years from the date of sale of any real property for taxes, under the provisions of this act, the said tax collector then in office shall, upon the application of holders of certificates of purchase, make out a deed for such lot or parcel of real property sold and remaining unredeemed, and deliver the same to the purchaser or his endorsee, upon the return of the certificate of purchase, the payment of all subsequent taxes on such property, and the payment of one dollar for the deed, but any number of parcels of real property for which one person may hold certificates of purchase may be included in one deed, as may be desired by the purchaser. Such deed shall be signed by the said tax collector in his official

Deed.

capacity, and acknowledged by him before some officer authorized to take acknowledgment of deeds, and, when substantially thus executed, shall vest in ^{Deed.} the grantee all the right, title, interest and estate of the former owner or owners in and to the lands conveyed, free from all encumbrances by such former owner or owners made or suffered (except State and county taxes). And each of such deeds shall be prima facie evidence in all the courts of this State, and all controversies and suits in relation to the right of the grantee therein, his heirs or assigns, to the lands thereby conveyed, of the facts recited in the deed, of the regularity of the proceedings in the assessment and sale of said property required by this act, and the title and right of entry to the grantee, his heirs or assigns.

Sec. 40. Be it further enacted, That, should said ^{Collection of Taxes.} general council require further or other means of collecting the taxes authorized by this act, it may, by an ordinance, substitute for any of the foregoing provisions the provisions contained in the State tax law then in force, or any part of such provisions for the collection of such taxes by the tax collector of the city of Mobile so far as the same may be applicable, and shall have the same right to sell property and make title to property sold for taxes as provided for collecting State and county taxes, and said general council, in adopting such provisions, shall, by the ordinances adopting the same, declare which of such provisions it adopts, and in such ordinance it may change the provisions so far as to substitute its tax collector for that of the State or county tax collector, and so as to adopt the provisions relating to State and county taxes, to the collection of the taxes authorized by this act.

Sec. 41. Be it further enacted, That the tax col- ^{Insolvents.} lector of the city of Mobile shall have the power to collect the taxes levied under this act from insolvent or defaulting tax payers by process of garnishment, in the same manner and by the same proceedings as

is or may be provided by law for the collection of State and county taxes, and the same duty is imposed on him, and the same powers and means are given to him, for the collection of State and county taxes; and the fees and costs shall be allowed out of the funds garnisheed as are allowed by said laws in the cases therein provided for. Said taxes, when due, shall be ascertained and collected and paid over to the city by the sheriff of Mobile county whenever he sells property under execution or other legal process in the same manner as is or may be required of him in reference to the collection of State and county taxes in similar cases.

Property sold.

Sec. 42. Be it further enacted, That whenever any property in said city has been sold for State and county taxes (either or both) and bought in for the State or county, the city may pay such taxes and fees or make such arrangement with the State as is possible to carry the property in the city's name on the city's credit with the State, and upon such purchase the city shall be invested with all the liens which the State and county had before the sale of said property. After such purchase by the city the said property may be sold for the payment of all city taxes and for the re-payment to the city of any assessments and interests due thereon for the re-payment to said city of the amount, with interest thereon, paid to the State or county or assumed by the city for the lien on said property by said city and for the expenses of the sale, in the same manner and through the same machinery now provided for the sale of property for failure to pay city taxes or assessments. Whenever any property thus sold is sought to be redeemed, the owner shall pay the amount of taxes and assessments of State, county and city for which said property was sold, and also cost of said sale, and of said redemption, and pay such other amounts as are required in the redemption of property sold for taxes by the said city. But no redemption of property sold for taxes under this

section shall (except in cases in which the city has been the purchaser, and then only with the consent of the aldermen) be allowed after three years from date of such sale.

Sec. 43. Be it further enacted, That the said ^{Licenses.} general council shall, besides the tax heretofore authorized, have authority to assess and collect from all persons or corporations trading or carrying on any business, trade or profession by an agent or otherwise within the limits of said coporation, a license tax, which shall be fixed and declared each year by ordinance of said corporation, and the license so paid shall be issued and the amount imposed shall be collected as may be provided by ordinances of said corporation; provided, that not more than one license under this act shall be assessed against or collected from partners trading or business done under a firm name; provided, further, that no license shall be exacted from any mechanic who employs no capital, but conducts his trade solely by his own skill and attention, without the aid of employees. A vehicle license may be imposed in addition to business license, provided that said license shall only apply to vehicles used in the transportation of goods or merchandise and vehicles used for hire at the public stands. Said general council may also, by ordinace, impose such fines and penalties within the limitations named in this act as they may deem advisable for the doing of any business or the carrying on of any trade or the practicing of any profession by any parties who shall fail to take out such license that may be imposed by said general council under the authority conferred by this act; in addition to the license tax imposed on livery stables, there shall be an additional license tax not exceeding one dollar for every carriage and fifty cents for every buggy owned and used for hire by such livery stable; except also that all variety houses and other places where songs and music or dancing or exhibited, and wines or vinous, malt or

Licenses.

spirituous liquors are sold there may be a license tax to an amount not less than one hundred and fifty dollars nor more than one thousand dollars, except also that for every circus, with or without a menagerie, there may be a license tax imposed per day not to exceed one hundred dollars. But no license of any kind shall be granted except to respectable people and for lawful business, and the mayor shall, upon satisfactory proof, revoke all license found to be otherwise, and also where the business is conducted in a disorderly manner or disorder is permitted in or about the premises licensed.

Bill in
Chancery.

Sec. 44. Be it further enacted, That in any case in which taxes for the use of said municipal corporation or of any one or more of its municipal predecessors has been assessed upon property which has ben bid in by the State at a tax sale, or should have been assessed thereon but for such sale, and such tax title still remains in the State, it shall be lawful for the mayor of the city of Mobile or for the general council thereof, by resolution, to instruct the city attorney to file a bill in equity against such property for the collection of such taxes. Upon being so instructed, said attorney shall file a bill in equity in the chancery court of Mobile county, or in any other court in said county having general equity jurisdiction. Such bill shall be filed in the names of the State of Alabama, the city of Mobile as complainant, but at the risk of the city of Mobile as to all costs and expenses, and the State shall incur no liability for any part thereof. The tax collector hereinafter mentioned as a tax collector for the old city debt, acting under the act for the adjustment and settlement of the then existing indebtedness of the late corporation known as the mayor, aldermen and common council of the city of Mobile, approved December 8, 1880, and the person to whom such property was assessed at the time of the tax sale, or his personal representatives, heirs, devisees and legatees thereof, if dead, and also any other person

Tax Collectors
duties.

known to have any interest therein, shall be made parties defendant to such bill. It shall describe such property with sufficient certainty for conveyance thereof, correcting any errors or uncertainties in the description by which it was sold. It shall allege the sale of such property and its purchase by the State, and the date thereof that the tax title so acquired still remains in the State, and the several years for which taxes thereon have not been fully paid to the State, county of Mobile and the city, respectively, and that taxes thereon, all justly due to said tax collector of the old city debt, but it need not allege the amount of any such taxes, and it shall be sufficient for it to pray generally for such relief as may seem meet to the court.

Sec. 45. Be it further enacted, That the proceed-Infants, etc. ings in such suit as to notices to parties, the representation of infants and persons of unsound mind, and in all respects not otherwise herein provided, shall be governed by the laws and rules of practice regulating proceedings in chancery courts, and the parties thereto shall have the same rights of appeal as in other equity suits.

Sec. 46. Be it further enacted, That it shall not Answers by collector. be necessary for the tax collector of said old city debt to file any answer or other pleading in any such cause, and no decree pro confesso shall be taken against him for want of answer or pleading, but the cause shall stand at issue as to him at the end of thirty days after service of summons upon him to answer the bill if he shall not answer or plead thereto. He shall attend at any reference held to ascertain the amount of taxes due upon the lands the subject of the bill, and a certified statement of the amount of taxes, interest, cost, fees and penalties, due to him as such tax collector thereon, shall be prima facie evidence of the correctness thereof. No compensation shall be allowed any solicitor representing such tax collector in said cause.

Tax title in
State.

Sec. 47. Be it further enacted, That, upon the hearing of said cause, if it shall be found that the lands are liable for the payment of any amount to the State for redemption or taxes, or to the city of Mobile, or to the tax collector of the old city debt, for taxes, the tax title vested in the State shall be held valid unless defense to the bill be made upon the ground of invalidity thereof, and if such defense be made, it shall be held valid if found to be so by the court upon the evidence. If so held, the court shall ascertain what amount is necessary for the redemption of said land from the State, including all county and other taxes, fees, costs, interest and penalties which the State is entitled to demand upon redemption under the laws governing such redemptions. If such sale be invalid then the court shall ascertain the amount of taxes, fees, costs, interest and penalties upon such lands due the State and the county of Mobile, respectively, at the time of such sale, and which should have been assessed and collected as escaped taxes or otherwise, for each year since such sale, including all special taxes assessed or which should have been assessed thereon, and which should have been collected by the county tax collector; and also the amount of all taxes, fees, costs, interest and penalties which had been assessed and not collected on such lands for the benefit of said city of Mobile, or any one of the municipal corporations which were its predecessors at the time of such sale, or which should have since been assessed or collected thereon but for such sale; and also the amount on all taxes, fees, costs, interest and penalties which had been assessed or had accrued on such lands at the time of such sale, under the above mentioned act, approved December 8th, 1880, or which should have been assessed or collected thereon but for such sale. The court shall ascertain and fix the taxable value of such lands for each year for which no assessment was made thereon for State taxation, not less than twenty days before any refer-

ence is ordered. The register of the court shall give ^{Tax title in State.} notice by mail to the State auditor and the tax collector of the old city debt, of the valuations so fixed, within five days thereafter. The certificate of the State auditor of the amount which should be paid the State for redemption of such lands or for the satisfaction of all taxes thereon due to the State and to the county of Mobile, and for all special taxes which should have been collected by the county tax collector, and of all fees, costs, interest and penalties thereon, shall be prima facie evidence of the correctness of such amount. The certificate of the city tax collector of the amount due the city of Mobile for all taxes assessed or which should have been assessed on such lands, and of all fees, costs, interest and penalties thereon shall in like manner be prima facie evidence of the correctness thereof. The tax rate for each beneficiary for each year shall be the general rate levied for such year for such beneficiary.

Sec. 48. Be it further enacted, That, in so ascer- ^{Delinquent.} taining the amount due for unpaid taxes for each year, such taxes shall be treated as delinquent upon the day upon which unpaid taxes of that character became generally delinquent, and all fees, costs, interest and penalties imposed by law upon such delinquent tax payers shall be assessed and adjudged by the court against said lands in such suit.

Sec. 49. Be it further enacted, That, in case any ^{Order by court.} recovery is had in such suits against the lands the subject hereof, and the same, with all costs of suit, is not satisfied within thirty days thereafter, the court shall order such lands, or so much thereof as may be necessary, to be sold for the satisfaction thereof; such sale shall be made and confirmed or set aside in all respects as is provided by law generally for the sale of lands under the decree of the court of chancery to satisfy debts.

Sec. 50. Be it further enacted, That the proceeds ^{Application of proceeds.} of such sale shall be applied first to the payment of

such amount as may be due the State upon the redemption of such land, or as may be due the State, the county of Mobile, and the beneficiaries of all special taxes hereinbefore mentioned, with all fees, costs, interest and penalties thereon, all of which shall be paid to the State auditor to be by him paid over to the beneficiaries respectively entitled to the same; next, to the payment of all costs of the suit; next, to the payment of such amount as may be recovered by the city of Mobile in such suit, with all fees, costs, interest and penalties adjudged to it; next, to the payment of the tax collector of the old city debt of such amount as the court shall in such suit decree to be paid him for taxes, fees, costs, interest and penalties; and the surplus, if any, to the owner of such lands.

Effect of sale.

Sec. 51. Be it further enacted, That the sale made in such suit shall divest the State of all title in the lands the subject of such suit which was vested in it by such tax sale and purchased by it.

Redemption.

Sec. 52. Be it further enacted, That the lands sold in any such equity suit shall be subject to redemption as is provided by law for the redemption of lands sold by the chancery court for the satisfaction of debts.

Action in Rem.

Sec. 53. Be it further enacted, That the proceedings in equity against any realty under the provisions of this act shall be an action in rem., and it shall not be necessary, in order to make a valid title upon the sale had under such proceedings, that the real owner of such realty shall be made a party to such suit.

Investigation
of title,

Sec. 54. Be it further enacted, That in any suit in equity under this act the court may, at its discretion, cause the title to the realty therein proceeded against to be investigated by such persons as it may designate, and report thereon to be made to the court. The expense of such investigation shall be taxed as a part of the costs of the suit. If such investigation should disclose that any person not a

party to such suit should be made a party thereto, the court shall cause him to be made a party defendant thereto and to be brought into court by proper process.

Sec. 55. Be it further enacted, That the intent ^{Intent.} of the foregoing provisions for a suit in equity is to compel the payment of all just taxes on lands which have escaped the same by purchase by the State at tax sales and the payment of all such fees, costs, interest and penalties as would have accrued against the same had it been duly assessed, and the taxes so assessed had not been paid, and the powers hereinbefore conferred on the chancery court, or other court of general equity jurisdiction, shall be liberally construed and exercised to that end. But, before any suit shall be brought under the provisions of this act in cases in which the owner of the realty ^{Notice to owner of suit.} is known and he is a resident of the county of Mobile, the city tax collector shall give such owner twenty days' written notice that such suit will be brought unless such realty is forthwith redeemed from the State and all taxes thereon for which it is justly liable to the city of Mobile, and under the above mentioned act, approved December 8th, 1880, whether escaped or otherwise, with all fees, costs, interest and penalties, justly chargeable thereon, are paid to the city of Mobile and the tax collector of the old city debt, respectively. If such redemption and payments are made within such twenty days, then such suit shall not be instituted. And provided, ^{Redemption and payment.} further, that when in any such suit any party interested in such lands shall pay into court any lump sum, upon condition that the same shall be accepted as in full of all claims of any one of the parties entitled to recovery against such lands in such suit and the court shall consider it to the best interest of such beneficiary and not unjust to other tax payers to accept such payment as in full of such claim, it shall be lawful for the court to make a decree or order so accepting the same and discharging such

Assent of
mayor and
governor.

lands from all further liability on account thereof; but in any such case the court shall require the party making such offer to pay into court all the costs of the suit, or such proportionate part thereof as the court may deem just, before making such decree or order of acceptance. And provided, further, that no such decree or order of acceptance as to any recovery which the State or city of Mobile is entitled to have in such suit shall be made until the written assent thereto of the governor and the mayor, respectively, shall be filed in such cause.

Disposition
of moneys.

Sec. 56. Be it further enacted, That all money collected for taxes, licenses, fines, penalties and forfeiture under this act shall be paid as collected to the credit of the said general council into such bank or banks as may be designated by them as depositories, and shall be drawn out only in such sums and at such times as the same shall be actually required, and only for the expenditures authorized by law, and only upon warrants signed by the mayor, countersigned by the city clerk, and issued in payment of claims that have been audited and ordered to payment by said general council. All said warrants shall be issued from a bound book containing a stub or margin corresponding to each one, which shall contain a receipt for said warrant by the party to whom issued, and shall be kept by the city clerk, subject at all times to the inspection of said general council. The warrant and corresponding stub or margin shall show by an entry, made at the time a warrant is issued, the date and amount of the warrant, for what purpose, on what account, by what authority and to whom the warrant was issued. Any person issuing any warrant for or on account of or in the name of said general council without complying with the provisions of this act shall be guilty of a misdemeanor.

Warrant
stub book.

Care of
the sick.

Sec. 57. Be it further enacted, That said general council may appropriate not exceeding eight thousand dollars per annum of the money realized under

the provisions of this act to provide proper places and treatment of the sick only who reside within said city of Mobile; provided, said city of Mobile may make with the county of Mobile such joint arrangements for the care of its sick as they may agree on, but so that the above amount shall not be exceeded by the city of Mobile.

Sec. 58. Be it further enacted, That said general council shall hold their meetings publicly at least once in every month; they shall keep a strict account and record of its proceedings, and once in each three months it shall publish in one of the newspapers published in said city of Mobile an itemized account of its expenditures for the three months preceding such date, showing all receipts and the sources of the same, and all disbursements and the object and purpose of each disbursement, and the said general council shall record, in a well-bound book, properly indexed all ordinances and all resolutions having the force of law, which book shall be open to the inspection of the public under the supervision of the clerk.

Sec. 59. Be it further enacted, That neither the mayor nor any one of the general council provided for by this act shall, directly or indirectly, by himself or through others, make or enter into with the authorities of the city of Mobile any contract for work or services of man or beast or for material or supplies, and any such contract so made or entered into shall be void. Nor shall mayor or general councilman or any officer or person charged with the collection of taxes, license or dues for such city of Mobile, by himself or through any other person, deal or traffic in any manner whatsoever in any warrant, claim or liability against said city of Mobile, unless it be to dispose of any warrants that may have been issued directly to any such mayor or member of the general council or any other person, and any person who violates the provisions of this section shall be guilty of a misdemeanor, and, upon

Council meeting, etc.

Officers not to be interested in contracts with city.

conviction, shall be fined not less than fifty nor more than one thousand dollars. And if the person so violating the foregoing provisions be mayor or member of the general council, he shall thereby forfeit and vacate his office.

Tax limit.

Sec. 60. Be it further enacted, That the said general council under this act shall not levy any other or further tax than the six-tenths of one per cent. of the value of the property within the corporate limits of the city of Mobile, which is authorized by the twenty-eighth section, and the license taxes authorized by section 43 of this act; nor shall said general council by any tax for any other purpose than those specially stated in this act, and any tax or license charged other than those authorized by said sections 28 and 43 which said general council may levy or attempt to levy shall be null and void and not be collectable, and any tax payer may enjoin by a bill in chancery and restrain without bond the tax collector of the city of Mobile from collecting any tax which said general council may impose or attempt to impose beyond the aforesaid tax and license charges. The provisions of this act shall not be applied nor be enlarged nor extended so as to be made applicable to or for any other purpose than stated in this act.

Annual statement by clerk.

Sec. 61. Be it further enacted, That the clerk of the city, at the close of each fiscal year, shall make a full tabular statement of the assets and resources of the city, with an itemized estimate of the probable and necessary expenses for the ensuing year, which shall be published. This report shall be made under the direction of the general council and shall be the basis for the appropriations for the ensuing year.

Unauthorized contracts

Sec. 62. Be it further enacted, That all contracts entered into by said general council contrary to this act for the purpose of raising money or otherwise engaging the credit of the city shall be null and void as to said city. But the mayor, if he ap-

prove, and all members of the general council present and voting who fail to record their votes against such measure or contract shall be jointly and severally liable thereon, as upon their own contracts, which may be enforced against such mayor and members of the general council in any court in the State having jurisdiction thereof.

Sec. 63. Be it further enacted, That it shall be unlawful for any horse or any animal of the horse kind, any cow or other horned cattle, any hog, sheep or goat to run at large or unattended within the following described limits of said city: Commencing on the south bank of One Mile creek where it intersects the west bank of Mobile river, thence westwardly along the south boundary line of One Mile creek to the west side of St. Joseph street, thence southwardly along the west side of St. Joseph street to Congress street, thence westwardly along the north side of Congress street to Franklin street, thence along the east side of Franklin street to St. Louis street, thence along the north side of St. Louis street to Hamilton street, thence along the west side of Hamilton street to the north side of St. Francis street, thence along the north side of St. Francis street to the west side of Broad street, thence along the west side of Broad street to the north side of Spring Hill road, thence westwardly along the north side of Spring Hill road to the west side of Ann street, thence southwardly along the west side of Ann street to the south side of Government street, thence eastwardly along the south side of Government street to the west side of Roper street, thence southwardly along the west side of Roper street to the south side of Selma street, thence eastwardly along the south side of Selma street to the east side of Franklin street, thence along the east side of Franklin street to the south side of Monroe street, thence along the south side of Monroe street to the west side of Royal street, thence along the west side of Royal street southwardly to the south side of

Limits unlawful for any stock to run at large in.

Pound.

Sales.

Redeeming.

Elmira street, thence along the south side of said Elmira street to the Mobile river, thence up the west bank of said river to the place of beginning; providing, that said general council may extend the said limits from time to time at its discretion and may prohibit the driving of stock of any kind within any portion of the above described limits; provided, further, that it shall be the duty of the said city to provide a suitable pound, and all animals found running at large within said limits shall be impounded therein by the city police or other officers provided for such purpose by said city, and the owner of such animal, if he be known, shall be notified of the fact by the impounding officer, if the name of such owner is known or can be ascertained with reasonable diligence. Where the owner can not be found, if his name be known, a notice shall be sent him through the mail to his best ascertainable address. If the owner does not appear and pay the impounding fee and expenses of keeping within two days after the impounding of such animal, it shall be the duty of the chief of police, or impounding officer, if there be any, to advertise and sell any such animal, after first giving notice for three days by publication of the same, which shall describe the animal fully, giving marks and brands, if any there be, and the place and date of capture, and the name of the owner, if known. All sales shall be had at the public pound and a record shall be kept of all impounded animals, giving description, name of reputed owner, date of sale, amount of fees and expenses, amount of purchase money and name of purchaser. All horses and like animals sold hereunder may be redeemed by the owner or assigns within thirty days after the sale by tendering or paying to the purchaser the amount of purchase money and twenty-five per cent. thereof and the cost of feeding the animal from date of purchase. All animals of the cow kind may be redeemed on like terms within ten days from the date of sale. When the purchase money amounts to

more than the fees and charges, the balance shall be paid to the owner, and, if he be not known, shall be deposited with the city clerk, and, if not called for within six months, shall be forfeited and be held as a special fund to defray the expenses in maintaining the said public pound. There shall be charged for impounding a horse or the like, a fee of ^{Impounding fees.} five dollars; for each cow or the like, a fee of three dollars; for each other animal, a fee of one dollar, which shall be paid into the said special fund; for feeding a horse, seventy-five cents per day; for feeding a cow, fifty cents per day, and for feeding each other animal, twenty-five cents per day, which shall be paid to the impounding officer, or any other officer acting in such capacity, who shall feed such animal at his own expense. ^{Compensation.} The cost of advertising shall be charged to the owner, and, when collected, shall be paid into the special fund. If a special impounding officer is appointed, he shall, in addition to the perquisite of feeding the animals, receive the pay of a sergeant of police, and all assistants shall receive the pay of a policeman, and they may be clothed with all the other powers of police officers, and may be required to do general police duty within the above described limits.

Sec. 64. Be it further enacted, That the general council shall have authority to establish, control and ^{Slaughter houses.} regulate the slaughter houses and pens, whether situated in the said city or within seven miles of the limits thereof. To regulate the sale of fresh meat in said city, and anywhere in the county of Mobile within seven miles of the limits of said city, whether butchered in the territory above defined or not; and to condemn all such meats which have not been butchered, or be not in the condition required by ordinances adopted by the mayor and general council. It shall also have authority to inspect, control and regulate all dairies within the limits of the city, ^{Dairies.} or within seven miles of such limits, from which milk is sold or offered for sale in the city, and all

milk sold or offered for sale in the city, and to make and enforce all such ordinances as will prevent the use of unhealthy or ill-conditioned cows for the supply of any such milk, and as will ensure that none other than pure milk of proper richness is sold or offered for sale in the city.

Free public
library.

Sec. 65. Be it further enacted, That whenever the revenues of the city of Mobile shall so far exceed its necessary public expenditures as to enable it to do so, without going in debt therefor, the general council shall have authority to establish and maintain a free public library and free public reading room, with such sub-stations or branches as it may deem necessary or expedient, and to make all needful rules and regulations for the management and conduct of the same, and for such purpose shall have power to hold property, real and personal, in trust, and to acquire property, real and personal, by gift, purchase, devise or bequest, and to contribute to the support and maintenance of any free public library and free public reading room, which may be established by any private corporation or association in said city, and which shall be made wholly subject to the control and regulation of the general council.

Board of
public works

Sec. 66. Be it further enacted, That there shall be a board known as the "Board of Public Works," which shall consist of the mayor of the city of Mobile and two other members to be appointed by the mayor, subject to confirmation by the general council, from among qualified voters of said city in the first instance immediately after the approval of this act, and it shall be unlawful for the mayor to disclose, before he sends in such appointments to the general council, for its confirmation, whom he will appoint to such positions, and it shall be unlawful for any member of the general council to promise or make it known before the meeting of said general council at which said appointments are acted upon, whether or not he will vote against or for the con-

firmation of any person so nominated; and any person violating the provisions of this section as regards said disclosures shall be guilty of a misdemeanor. No person shall be eligible to membership on said board who holds a federal or State office, nor shall any officer of the city of Mobile other than the mayor, or any employee thereof, or member of the general council during the term for which he shall have been elected to said council, or within six months after the expiration of his term therein, be eligible to membership in said board. Nor shall said board elect to office, or employ or contract with any one who is related to any member of the general council of the city of Mobile or of said board of public works within the sixth degree of consanguinity of affinity under the civil law. The term of one of said appointed members shall expire with that of the general council, whose term expires in 1906; and the terms of the other appointee shall expire with that of the general council whose term expires in 1909. The successor of said first appointee shall be elected by the qualified voters of the city of Mobile at the election for members of the general council in 1906, and every six years thereafter; and the successor of said second appointee shall be elected by the qualified voters of the city of Mobile at the election of the members of the general council in 1909 and every six years thereafter. The members of said board shall hold office until their successors have qualified. At the first meeting of said board, or as soon thereafter as practicable, after the appointment and confirmation of the members thereof, it shall in formal session decide by lot which shall hold for the original short term, and which one for the original long term, and shall make formal record of the result and certify the same to the mayor and general council; said decision shall fix the respective terms of said members. Said board may, in the name of the city of Mobile, buy, sell and contract

Board of
public works.

as hereinafter prescribed, and may use the corporate seal of the city of Mobile.

Salaries.

Sec. 67. Be it further enacted, That each member of said board, including the mayor, shall receive a salary of five hundred dollars per annum for his services on said board, payable quarterly out of the city treasury in the same manner as the salary of the mayor is paid. Such five hundred dollars to the mayor shall be in addition to his salary of eighteen hundred dollars herein above provided for.

Sec. 68. Be it further enacted, That, before entering upon the discharge of their duties, the members of said board shall severally take and subscribe the following oath before some officer authorized to administer oaths: "I do solemnly swear that I will support the constitution of the United States and the constitution of the State of Alabama, and that I will faithfully, zealously and impartially discharge the duties of this office without fear or favor, and for the public welfare, so help me God."

Oath.

Sec. 69. Be it further enacted, That, in case of the death, removal, resignation or non-residence in the city of Mobile of any member of said board, the board shall elect a suitable person to fill the vacancy thus caused.

Officers of the board.

Sec. 70. Be it further enacted, That the officers of said board shall consist of a president and a secretary, provided that the city clerk of Mobile shall be said secretary, without extra compensation, except that the said board may, if it deems it necessary, appoint an assistant to said secretary at a salary not to exceed fifty dollars per month, both of whom shall be elected by the board. The president shall be elected from among the members of the board, and, except as to the first election, which shall be at the original organization of said board and for the partial term until the next regular election, at which members of the general council are elected, shall be elected at the first regular meeting of said board after each regular election at which

members of the general council are elected. The term of the president, except in the first instance, shall be three years. The secretary shall not be a member of the board; provided, that the mayor shall not be president of said board. Any vacancy in any office may be filled by the board by election at any time, except the office of said secretary. Said board shall have authority to require of said secretary, and any and all officers and employees of said board, to give bond in a surety company for the faithful discharge of the duties imposed upon them by law or by the board, in such sum as the board may from time to time prescribe, and such bonds shall be subject to the approval of the board.

Sec. 71. Be it further enacted, That the board **Rules.** shall have full power and authority, by formal resolution, to make and promulgate all necessary or appropriate rules, regulations, stipulations and provisions for the carrying out of the work entrusted to said board, and for the government of the officers and employees elected or employed by or acting under the authority of said board, and for the regulation of the use of the property entrusted to the care of said board.

Sec. 72. Be it further enacted, That said board **Power of Board.** shall have exclusive power, supervision and control repairing, cleaning, filling, paving, curbing, bridging, draining, protection, maintenance, extension, improvement, beautifying and care of streets, roads, avenues, parkways and alleys, including both sidewalks and roadways, drainage canals, drains, culverts and ditches, and the prohibition and removal of obstructions and unsightly objects from such streets and other ways; the condemnation by the methods provided by the general laws of Alabama, or purchase of real property within or without the corporate limits of the city of Mobile, or any right, interest or easement therein, for the purpose of providing streets or improving or extending the drainage or street system of the city of Mobile. No power

granted to said board shall be construed as abridging the power of the mayor and general council to police the streets, alleys and public places, and to enforce law and order.

Authority of
board.

Sec. 73. Be it further enacted, That said board shall have full authority in carrying out its duties and powers to call on the city attorney, the city engineer, the city clerk, the committee clerk, and the other officers and employees of the city of Mobile for suitable advice, assistance and service as they may be able to render, and also for a limited time, and, upon obtaining authority from the mayor and general council, to employ additional attorneys or legal advisers; and also to employ, discharge and suspend such engineers, agents, superintendents, inspectors, clerks, mechanics, laborers and other employees as in their judgment may be or become necessary; and to fix their terms of employment, salaries and compensation.

Machinery,
tools, etc.

Sec. 74. Be it further enacted, That said board shall have full power and authority to purchase or order any and all machinery, tools, appliances, fixtures, materials or other things necessary or expedient in executing the duties and powers of said board.

Expenditures.

Sec. 75. Be it further enacted, That, in the case of salaries, in the case of street cleaning, and in cases of emergency which makes such a course impracticable, no expenditure of more than one hundred dollars shall be made except upon contract let to the lowest responsible bidder, and where the amount exceeds one hundred dollars and does not exceed five hundred dollars, bids of two or more responsible bidders may be taken, either privately or by public advertisement. Where the amount exceeds five hundred dollars, bids must be taken by publication in such newspapers or other periodicals in the United States or elsewhere as said board may direct. Said board may also, at its option, give out any or all of the cleaning work above mentioned

Contracts.

by contracts in the same manner. Said board shall always have the right to reject any and all bids. But said board shall not incur any obligation of debt unless funds are on hand with which to pay the same. And said board shall have no power to pledge the credit of the city except as herein provided.

Sec. 76. Be it further enacted, That all funds appropriated to the use of said board by the general council and any funds appropriated and set apart or donated to the use of said board from any other source shall be kept separate and apart from the other funds of the city of Mobile. Such funds shall be drawn out only in such sums and at such times as the same shall be actually required, and only for the expenditures authorized by law, and only upon warrants signed by the president of the board of public works, and countersigned by the city clerk and issued in payment of claims that have been audited and ordered to payment by said board. All said warrants shall be issued from a bound book containing a stub or margin corresponding to each one, which shall contain a receipt for said warrant by the party to whom it is issued, and shall be kept by the city clerk, subject at all times to the inspection of said general council and the board of public works. A warrant and corresponding stub or margin shall show by an entry at the time the warrant is issued, the date and amount of the warrant, for what purpose, what account, and by what authority and to whom the warrant was issued. Any person issuing any warrant for account of, or in the name of said board of public works, without complying with the provisions of this act, shall be guilty of a misdemeanor.

Sec. 77. Be it further enacted, That said board shall have regular meetings at least once in each month in some office in the municipal building in the city of Mobile appropriated to them by the general council, and called meetings may be held at any time on the call of the president or a majority of

said board. Said board shall have authority to enforce the attendance of its members in the same manner as in the case of the general council. Two members shall constitute a quorum of said board, but one member may adjourn from time to time and take proper steps to enforce the attendance of absent members. All meetings of the board shall be public, and careful record of its proceedings shall be kept. At the call of any member the vote on the pending questions shall be taken by ayes and noes, and entered on the minutes. The record of the proceedings of said board shall be open to public inspection at all reasonable times, and a copy from said records certified by the secretary of said board shall be competent evidence in all courts.

Estimated
statement by
board.

Sec. 78. Be it further enacted, That said board shall submit to the general council, at its annual meeting in March of each year, an itemized budget, showing the estimated receipts and expenditures of said board for the ensuing fiscal year, giving in detail the sources of revenue and estimates of salaries and expenses proposed by said board, together with the estimated costs of proposed repairs, extensions and improvements, separately stated, and if such budget shows a deficit the general council may appropriate from the general revenue of the city a sum sufficient to cover said deficit, or any part thereof, and said sum thus appropriated shall not be diverted from said board, or used by the mayor and general council, but shall remain a separate fund in the hands of the city clerk, to be drawn out only in the order of said board; provided, however, that any portion of said sum remaining unexpended at the end of the year shall not be paid to said board, but shall be returned to the general fund of the city of Mobile.

Annual report.

Sec. 79. Be it further enacted, That said board shall make an annual report to the mayor and general council at its annual meeting in March of each year, showing, by detailed and itemized statements,

the receipts and expenditures for the year; physical condition of the property under the care of said board, and any other matters of public interest connected with the work of said board. Said board shall also make a quarterly report of receipts and expenditures to the mayor and general council in such detail as the welfare of the city may require. ^{Quarterly report.}

Sec. 80. Be it further enacted, That any member of said board, except the mayor, may be removed from office for incompetency, neglect of duty or official misconduct, by impeachment, on the petition of two or more tax payers of the city of Mobile, under proceedings to be had in the circuit or city court of Mobile county, in the same manner as is provided by the code of Alabama for the impeachment of mayors and intendants of incorporated cities and towns in this State; provided, however, that such proceedings shall be had before the judge of said court and without a jury. ^{Removals from office.}

Sec. 81. Be it further enacted, That no member of said board and no member of the general council shall, directly or indirectly, have any personal interest or share in any way in the income or profits resulting from any contract with said board, or for the sale of any materials to or performance of any service or labor for said board, or for materials furnished or services rendered to any person carrying out a contract with said board, nor shall any member of said board of public works, except the mayor, hold any other public office. ^{No interest in contracts.}

Sec. 82. Be it further enacted, That the mayor and general council of the city of Mobile be and are hereby authorized and empowered to issue bonds for the purpose of paving the streets, alleys and public places of the city of Mobile under the conditions hereinafter expressed and provided. ^{Bonds.}

Sec. 83. Be it further enacted, That, whenever the board of public works shall deem it wise to pave the streets and alleys, or otherwise improve any street or alley or public highway or portion thereof, or the streets, alleys

Paving of
streets and
alleys.

and public highways lying within certain boundaries in the city of Mobile, said board shall decide the material with which, in its judgment, such paving or improvement should be done, and shall make an estimate of the cost thereof, and shall forthwith make report to the general council of their decision as to such paving or improvement and the material and estimated cost thereof. The general council shall act upon such report within thirty days after receiving the same, or may order that such paving or improvement shall not be done at all without further authority, or may disapprove the proposed expenditure therefor if deemed by it excessive, and may fix an amount which shall not be exceeded by the board in doing the same. If such expenditure be so limited, it shall be the duty of the board to make further estimates for such paving or improving, unless it shall deem that the same can not be judiciously done within such limit, and shall submit a further report to the general council, which shall be acted on as above provided, and this course shall be pursued until a project of the board for such paving or improving is approved by the general council, or until a limit of expenditure shall be fixed by it so low that in the judgment of the board it is not judicious to do such paving or improving within it. In that case the board shall enter its decision or judgment upon its record, and shall not be required to proceed further as to such paving or improving. But it may at any time not less than thirty days after the entry of such judgment take up again the matter of such paving or improving and submit a further report or reports thereon to the general council, upon which the same proceedings shall be had as are herein provided. Whenever the general council shall approve any project of the board for paving or improving, it shall enter such approval upon its minutes and give notice thereof to the board, which shall, by formal resolution, order that such paving or improving be done and paid for as

hereinafter provided. Said mayor and general council shall thereupon provide by ordinance for the issuance of bonds of the character hereinafter described in an amount sufficient to pay the cost of such paving or improving. The proceeds from the sale of such bonds shall be kept separate and apart from the general funds of the city, and subject to the order of said board, to be used only for said paving or improving, and any surplus for the redemption of the bonds issued therefor. Thereupon said board shall proceed at once to have said paving or improving done; provided, however, that said board, before proceeding to pave any other of the streets and alleys in said city, shall first pave all the streets and alleys in that portion bounded on the east side by the Mobile river, on the south by the south line of Church street, on the west by the west line of Jackson street, and on the north by the north line of St. Louis street, except that it shall also continue paving of Commerce, Water and Royal streets northward from said boundary line to Beauregard street; and provided also that, in order that there shall be no delay of the work of paving other streets and alleys, they may proceed with such other paving while completing the paving in the boundary aforesaid, and on the streets herein mentioned, and may also proceed to the paving of Dauphin and Government streets to the city limits while completing the paving within the boundary and on the streets mentioned.

Sec. 84. Be it further enacted, That said bonds Bonds. shall be issued in the form of negotiable paper, payable to bearer, and shall have attached thereto coupons for the interest thereon; and, by the ordinance providing for the issue of said bonds, full provision shall be made for their character and stipulations. Said bonds shall be in such denominations as the mayor and general council may direct, not less than fifty dollars nor more than one thousand dollars each, Said bonds shall pay interest at not exceeding

six per cent. per annum, payable semi-annually, at such place or places as may be specified therein. Said bonds shall be issued under the corporate seal of said city and be signed by the mayor and city clerk, and shall be disposed of at not less than their par value. Said bonds shall be payable on or before fifteen years from their date, and shall be so issued that any one or more of them may be redeemed from time to time out of any surplus that may remain from the sale of said bonds after the paving or improving for which they were issued has been paid for, and out of the funds received from property owners in payment for their portions of said paving or improving. And it shall be the duty of the city to redeem at least one-fifteenth of each and every issue of said bonds, with all interest due, each year till they are extinguished.

Estimate of
cost of paving.

Sec. 85. Be it further enacted, That, when said paving or improving shall have been done, said board shall ascertain and make formal record of the following facts, and any other facts that will aid in determining in what proportion said paving or improving shall be paid for by the city, the street, electric or other railroads, and the abutting property owners: (a) The total cost of said paving or improving, and the average cost thereof per square yard. (b) As to each separate cost of abutting property, the name of the owner (or if the name of the owner is unknown that fact shall be stated), the street number (or if none such exists, such other reasonable description as will serve to identify the property) and the number of front feet abutting on the paving or improving. (c) What portion of said paving or improving should be paid for by street, electric or other railroads for paving between their tracks and for eighteen inches on each side thereof.

Preliminary
estimates.

Sec. 86. Be it further enacted, That thereupon said board shall make a preliminary estimate of: (a) The portion of the cost of said paving and improving due by each of the various streets, electric

or other railroads operating on the streets, alleys or other public places paved or improved. (b) The portion that should be assessed against and paid by each abutting property or property owner; the amount assessed against such property or property owner to be measured by and in no case exceed the special benefits accruing to said property or property owner by reason of said paving or improving, and in no case to exceed four dollars per front foot, measured on all the streets, alleys or public places on which the property has a front which has been paved or improved; provided, that a more expensive pavement may be used with the written consent of the abutting property owner, and provided, further, that the city of Mobile shall pay for all crossings and intersections, and, in addition thereto, for not less than one-fourth of the total cost of the paving of such streets as have no street railroads or other railroads which are required by law to pave, and not less than one-fourth of the residue of the cost of paving such streets upon which street or other railroads are required by law to pave, and (c) the portion that should be paid by the city of Mobile.

Sec. 87. Be it further enacted, That, after said preliminary estimate has been prepared, it shall remain on file for public inspection, and said board shall give at least ten days' notice by one publication in a newspaper published in the city of Mobile and by mailing a notice to each abutting property owner whose name and address are known, of the making of said preliminary estimate, and that it is open to public inspection, and appointing a time when and a place where all parties in interest may be heard in opposition to said preliminary estimate or any part thereof. Said notice shall be sufficient if it states generally the streets, alleys and public places or portions thereof on which said paving or improving has been done as a whole, and it shall not be necessary to state the names of the owners or

Notice to property owners.

other details connected with said preliminary estimate.

Hearing of objections.

Sec. 88. Be it further enacted, That, at the time and place appointed for said hearing, said board shall judicially hear all written objections to said preliminary estimate or any portion thereof, and shall hear all proper evidence for or against the same. Said board shall carefully and judicially consider all written objections and all evidence offered, and either confirm or alter the portions of the preliminary estimate objected to. All portions of said preliminary estimate not objected to before the time appointed for hearing said objections shall be final and binding, and all portions objected to and passed upon shall, as passed upon, be final and binding unless appealed from as hereinafter provided for. All final and binding assessments shall have all the force and effect of judgments at law against the respective owners of the abutting property, subordinate only to the lien for taxes, and shall be enforceable in the same manner provided for the collection of city taxes, and also by suit at law or in equity. And each annual installment, as it falls due, may be thus enforced by separate suit.

Appeal.

Sec. 89. Be it further enacted, That any party in interest may appeal from any decision of said board to the circuit court of Mobile county within ten days after said decision, upon giving security for the costs of said appeal, to be approved by said board, by filing with the clerk of said board a notice of appeal, a copy of which shall be served by said clerk on the mayor; and said clerk shall send to the circuit court an exact copy of the assessments appealed from within ten days after the filing of the notice of appeal; and the trial in the circuit court shall be de novo, and from the judgment therein rendered an appeal shall lie as in other cases.

Payment for paving.

Sec. 90. Be it further enacted, That, whenever the cost of paving or improving has been assessed as above provided, the property owner may pay the

entire amount due at once, and thereby discharge the lien against him, or he may pay not less than one-fifteenth thereof in cash and not less than one-fifteenth thereof each year thereafter until the whole is paid, and with each payment must also be paid interest at not exceeding six per cent. per annum on the amount then due from the date of the last payment. The first payment in each instance shall be due on the first day of the month next succeeding that in which said board finished hearing objections as above set out, and the subsequent payments on the same day in each succeeding year. All such payments shall be made to the city tax collector in the same manner as taxes are paid. All such moneys shall be applied to the redemption of the series of bonds appertaining to the paving or improving, for which said moneys are a part payment until all bonds of said series are redeemed. Thereafter said moneys shall be used for any other paving or improving said board may designate.

Sec. 91. Be it further enacted, That, should there Payments by
railroads, etc. be a street, electric or other railroad upon any street or alley determined to be paved, the cost of paving between and under the rails of such tracks and eighteen inches on either side of such track or tracks, including switches and turnouts, shall be paid by the owner or owners of such road, and shall be assessed and collected from such owner or owners, and shall be a lien upon the property of such person or company, in the same manner as hereinbefore provided for as to other property owners. And should any street, electric or other railroad or railway be constructed upon any street which has been previously paved under this act, the owner or owners thereof shall, before beginning such construction, pay to the city clerk the cost of paving between the rails of the tracks contemplated and eighteen inches on each side of such tracks, including switches and turn-outs.

When assess-
ment invalid.

Sec. 92. Be it further enacted, That if, for any reason, any assessment or any part thereof should be invalid or incapable of enforcement, this shall not absolve the property owners and the property from the indebtedness due for said paving or improving, but said board shall proceed to make a new and valid assessment in accordance with the law and the facts, in whole or in part, as may be necessary.

Effect of this
act.

Sec. 93. Be it further enacted, That this act shall take effect and be in force on and after its approval, except that the present incumbents of the respective offices in said city shall continue to perform the duties and receive the emoluments thereof until their successors have been elected and qualified under the provisions of this act. The general council shall not have authority to add to the salary or compensation of any official or employee whose salary or compensation is fixed by this act.

Legal suc-
cessor.

Sec. 94. Be it further enacted, That the municipal corporation hereby created shall be in all respects the legal successor of the late municipal corporation known as the city of Mobile.

Repeal.

Sec. 95. Be it further enacted, That all laws and parts of laws in conflict with the provisions of this act be and the same are hereby repealed.

Approved March 5, 1901.



Wm. Carey Jones

REPORT OF
COMMITTEE ON REVISION

PROPOSED
NEW CHARTER

CITY OF MOUNT VERNON, N. Y.

FINAL DRAFT
MARCH 1910



EDWIN W. FISKE
MAYOR

MOUNT VERNON, N. Y., Sept. 12, 1910

William Carey Jones, Esq.,
2625 Benvenue Avenue
Berkeley, Calif.

Dear Sir:

Replying to your favor of the 27th of
August which was received during my absence from

the city, I send you by same mail a copy of our
old charter, also draft of proposed new charter of
Government by Commission.

Trusting this will reach you safely I am,

Very truly yours,

Edwin H. Davis
MAY 7

REPORT OF THE SPECIAL COMMITTEE TO REVISE THE PROPOSED CHARTER.

To the Honorable Mayor and Common Council of the City of Mount Vernon :

Pursuant to the resolution of your honorable body, the undersigned committee beg to submit this report with our final revision of the draft of the charter for the city submitted to the people in 1909.

Of the members of the committee appointed by Mayor Howe in November last, Alderman Ransom Caygill and Mr. A. J. McCarten asked to be relieved from the duty; Mayor Fiske requested Alderman Van Tassell to serve in the place of the former, but he felt compelled to decline and the place remained vacant; Mr. Edward M. Davis accepted Mayor Fiske's appointment in the place of Mr. McCarten. Judge Sidney A. Syme was able to attend only one meeting.

A preliminary draft of our revision, representing the tentative views of a majority of the committee, was completed in January, printed and submitted to public hearings, four of which were held. All the important provisions in this preliminary draft were adopted only after thorough discussion, and those features of the 1909 draft which were omitted, were likewise carefully considered before conclusions were reached.

A large number of suggestions were received at the public hearings, many of which were valuable and utilized by the committee in determining questions, as will be observed when the final draft is compared with the preliminary one, a copy of which is submitted herewith.

Certain general principles have been kept constantly in view in shaping the document :

(a) The elimination of partisan politics from the administration of our municipal business.

(b) The concentration of responsibilities and hence of powers.

(c) The simplification of the ballot.

(d) The largest practicable provision for home rule, and measures to enlist the interest of the people in their public affairs.

(e) The retention of approved permanent provisions of the present charter, not inconsistent with the proposed system.

With respect to the last-named feature, the chief consideration has been to avoid the need of an appeal to the legislature of the state whenever a modification of a charter provision is desired; to that end the plan was proposed of having existing laws and ordinances that are likely to be subject to change as the city develops, enacted into an amendable code, by the commissioners, and only those which would probably not require changes, embodied in the charter. By subjecting amendments to this code in important particulars to a referendum, the requisite restraint upon the new city government would be provided for. It was found desirable, however, to re-enact a substantial part of the present charter.

Thus, under the proposed system, it will no longer be necessary to ask permission of the legislature to increase the annual outlays for our library; or to increase the number of roundsmen to be employed on our police force; and as to similar matters, over which the people of the city should have absolute power of determination.

The need for arousing interest in the city's affairs among the people has been met in the sections relating to the referendum, the initiative, the recall and the manner of nominating candidates for office. These constitute important additions to the 1909 draft.

Coming now to certain details, referring to the final draft:

A suggestion to include a heraldic description of the city's seal was considered, but not approved.

The present charter provisions respecting claims against the city are continued, with an extension of the period within which

claims must be presented, from thirty to sixty days; the provision relating to claims for injuries, omitted from the 1909 draft, is to be re-enacted. (Section 5). In section 6, a proviso, making the warrants issued in payment of claims negotiable, has been inserted.

The publicity features (section 9) have been materially improved. Sections 10 to 12, relating to the required changes in offices have been amplified; due consideration was given to the suggestion, that the provisions in former drafts extending terms of office, were probably unconstitutional.

The plan to have five commissioners, one of whom to be known as the mayor, remains; but all of the commissioners are given executive duties, instead of having two without such duties, as in the 1909 draft.

The distribution of powers and duties has been altered somewhat from that in our preliminary draft; thus there is to be no commissioner of education, and the duties relating to assessment are assigned to the fifth commissioner.

The school affairs are to be managed by five, instead of ten, trustees, to be chosen at large for five-year terms, one in each year; the mayor is to be president of the school board, without a vote except in case of a tie; the final determination of the school budget and the issue of bonds for school purposes, is to be in the board of commissioners, the latter subject, however, to the referendum at the demand of the school board. The committee has been nearly unanimous throughout, upon the point that the present dual system of taxing and issuing bonds is repugnant to the cardinal principle of government by commission, that responsibilities and powers be concentrated. The present system leads to clashing of interests which frequently proves detrimental to the schools. In other particulars, the school provisions of the present charter, including the right of women to vote upon school questions, are to be re-enacted without material change. It is believed that careful consideration will bear out the view held by the majority of the committee, that the proposed plan will prove beneficial to the school system.

Provision for terms of office, and their adjustment to conditions as they will exist when the charter becomes operative, have been carefully prepared.

The commissioners' terms are fixed at five years, but after the first election only one will be voted for annually. Thus, as far as the city affairs proper are concerned, we shall have a simplified ballot, regarded so desirable for the purpose of enabling electors to vote with greater opportunity for intelligent discrimination.

All the elective officials are to be elected at large, ward lines being abolished.

As provided in the 1909 draft, the city court judge and his deputy are to hold office for six years and the jurisdiction of the court is enlarged, substantially to that of a county court. The judge is to be paid a salary of \$6,000 per annum, but not permitted to practice. The deputy is prohibited from practicing in the city court.

The anomalous condition of having one supervisor chosen in an "off year" has been done away with.

The important question of the salaries of the commissioners has been determined, after very full discussion, in a manner believed to be acceptable to a large majority of the people; the committee concluded that \$2,500 for the mayor, and \$2,000 for each of the commissioners, would be ample, in view of the fact that these officials are not to be expected to give their entire time to the service of the city. We are justified in relying in a considerable degree upon the public spirit of our citizens qualified to fill these offices. Yet provision is made to increase these salaries, if the growth of the city's business justifies such a step, by a vote of the people, obviating appeals to the legislature.

The several sections providing for deputy commissioners, have been eliminated, in accordance with suggestions received.

The prompt deposit in the city treasury of all revenues and fees received by officers and employees, is provided for; and special attention has been given to the establishment of thorough accounting.

Despite considerable opposition the proviso that the commissioners shall be freeholders, has been retained in section 20, an important amendment of the 1909 draft.

Section 25 is, in the judgment of the committee, the most important in the charter; it is presented without material change from the original form. In it the general powers of the commissioners classifiable as legislative, are broadly set forth. Except as limited in other sections, or by the state laws, these powers are large and clearly make for home rule. They are necessary to most efficiently promote the general welfare of the city and its inhabitants, which is the paramount object of the charter.

Under section 26, a number of powers are specified, the greater part carried over from the present charter; most of these might have been omitted, but a useful purpose is served by the course pursued. The suggestions that mandatory provisions should be separated, has been followed by placing them in section 27.

After extended discusion of the subject, and due consideration of suggestions offered, the power to transfer unexpended balances of appropriations of public funds, within certain limitations, has been continued, substantially as provided in the amendment to the present charter, in chapter 561 of the laws of 1905.

The authority to issue bonds is broad and general; yet the right of the people to require a referendum thereon, operates as a wholesome restriction upon the commissioners. Long term bonds are to be issued only for permanent objects, and the creation of sinking funds is made mandatory.

In the distribution of executive powers the mayor, beside having general supervision of the city's business, has been charged with the preparation of the budget, the control and audit of receipts and expenditures, the city records, the elections, and the presidency of the school board. The powers and functions of the commissioners of public safety and public works remain substantially as originally proposed; the former has the supervision of the police, fire and health departments; the latter is to direct the business relating to public improvements, the care of streets, public buildings, sewers, etc.; the commissioner of finance has all the city funds in charge, receiving, collecting and disbursing all moneys; the fifth commissioner looks after tax levies, assessments and the purchase of supplies.

The plan in the 1909 draft of having an auditor to hold office at the pleasure of the commissioners, was rejected as inad-

equate to provide for effective, independent accounting control; hence the duties were imposed upon the mayor.

As a further measure to enable the people to acquaint themselves with the financial condition of the city, publication of frequent reports is required.

Numerous sections are added to re-enact our laws relating to taxation, police, special assessments and schools, using the provisions of the present charter as a basis. Several laws are, however, not re-enacted, but are to remain undisturbed; thus the delinquent tax law of 1908, the police-pension-fund law, the school-pension-fund law, the library act, the art commission act, the law relating to vacating assessments and the old village sewer act. The first named act was included in our preliminary draft, but it was finally held desirable to exclude the text from the charter.

The provisions relating to the referendum, the initiative, the recall and nominations, are embodied in title XIII.

In order that the rather costly application of the referendum may not be resorted to too frequently, a method suggested to us for a preliminary manifestation of popular opinion at public hearings, at the request of twenty-five electors, was adopted. This intermediate step will, in many instances, obviate the need for a referendum; or by attracting public attention, render the obtaining of the required signatures therefor much less difficult, if public opinion is really in favor of the movement.

The occasions when the referendum may be used are when a franchise is to be granted, when appropriations exceeding \$25,000 are proposed, when a bond issue is regarded advisable, when it is proposed to increase the salaries of the commissioners. A special section defines the term franchise, as used in the charter.

After much discussion it was determined to require only five per cent. of the electors to demand the referendum. The same number is made requisite to call for action of the commissioners, by means of the initiative, upon proposed ordinances desired by the people.

The recall, without which, in the opinion of the majority of the committee, government by commission would be seriously defective, is not to be operative except upon demand of twenty-

five percent. of the electors; it should not be made so easy as to lead to frequent agitation on ill-founded pretexts or through political scheming. For this reason also, the proviso requiring that one-fifth of the required number be adherents of each dominant political party, is retained as in the preliminary draft. It is regarded necessary, in order to avoid giving an opportunity to any one opposing group, to needlessly harass an official. The present statutory power of removal by the governor, remains, (section 15).

Respecting nominations for office, (school trustees excepted), the suggestion to provide for nominations by twenty-five electors, and a preliminary election to take place some time prior to the general election day, was rejected; but the number of signatures required to nominate has been materially reduced from that recommended in the preliminary draft. The final action of the committee fixed this at 500.

School trustees are to be nominated, as well as elected, in the manner now provided for.

Petitions for the purpose covered by title XIII may be proved by a subscribing witness, thus facilitating the work of obtaining signatures. The commissioners are to prepare and provide the required forms.

Care has been taken to avoid, so far as practicable, the added expense of special elections; but without unduly restricting the right of the people to have questions submitted to them.

The machinery under which these functions are to be exercised by the electors, has been carefully drawn and subjected to much study. The general election law of the state naturally remains to govern, respecting details not specifically provided for in the charter..

There remain two important features which have caused much discussion, and upon which a material difference of opinion has become manifest.

The first of these was a suggestion, made at one of the public hearings, that there be embodied in the charter a provision permitting the electors of each district of the city to vote upon the question of local option under the excise law. Upon this suggestion a majority of the committee stands opposed, solely

because of the belief that such a provision would be of questionable constitutionality; the purpose can be accomplished by special act, avoiding the constitutional objection; and we recommend to those who desire this legislation that they prepare such an act for submission to the legislature.

The second feature also came as a suggestion of amendment at one of the public hearings. It proposed that the charter, after it has become law, shall be resubmitted to the people, to be voted upon before its acceptance.

With due deference to the sentiment prevailing at the public hearing referred to, which was the most largely attended of the four, a majority of the committee, after much deliberation, concluded not to embody the provision in its draft of the charter.

The committee felt bound to regard the very substantial vote cast upon the question last November as a mandate; investigation has demonstrated that the majority then given would have been materially larger but for a misunderstanding of the question as put before the people. In order that there may be no doubt as to the question voted upon, the language thereof is here reproduced:

Shall the proposed charter for the government of the city of Mount Vernon under what is known as the commission system be submitted to the legislature with such amendments and modifications as the common council may adopt after a public hearing to be called for the consideration thereof, with the request of the inhabitants of Mount Vernon that it be passed?

This mandate is construed by the committee to have been a direction to your honorable body to amend the draft of charter of 1909 and present it to the legislature for enactment; our own functions are merely advisory in the performance of the duty so imposed.

In the regular course of procedure the bill would, after passing the legislature, and before approval by the governor, come back to your body for acceptance, after a public hearing. Thus, if the legislature should make material or objectionable changes in the draft, the city would still have the power of veto. There can hence be no danger that the people will be forced to accept an objectionable charter.

Furthermore, the proposed resubmission would have to be made either at a special election, or at the general election next November. If a special election were determined upon, the taxpayers would be saddled with a very considerable extra expense (estimated at not less than \$5,000), at the behest of a relatively very small number of them. If the resubmission were to be delayed until November, the charter would be useless; since at the same election the people would have chosen officers under the present charter, the provisions of the new instrument, if adopted, would not become operative and a further revision would be necessary, meaning of course further legislation.

In these circumstances the majority of the committee felt warranted in following the expressed views of the majority of the sixty odd per cent. of electors who voted on the question last November, rather than those of the not to exceed 125 citizens who attended the public hearing at which the suggestion was made; and they therefore omit all reference to resubmission in the final draft.

Respectfully submitted,

MAURICE L. MUHLEMAN, Chairman,

J. GEORGE HERMES,	JARVIS W. MASON,
J. ALBERT ZIMMERMANN,	WILLIAM B. MARTIN,
GEORGE H. TAYLOR, Jr.,	W. A. WATERMAN,
JAMES PACKMAN,	EDWARD M. DAVIS.

ALLEN W. REYNOLDS,
Secretary.

March 12, 1910.

MESSRS. WALLACE N. VREELAND, FRANK A. BENNETT and JOHN P. WALTHER, dissent from the views of the majority on the subject of resubmission of the charter to a vote.

PROPOSED CHARTER AS REVISED.

An Act to Provide a New Charter for the City of Mount Vernon.

The people of the State of New York represented in Senate and Assembly, do enact as follows:

TITLE I.

OF THE BOUNDARIES AND OFFICERS OF SAID CITY AND GENERAL PROVISIONS.

SECTION 1. All that district of country which at the time of the incorporation of the city of Mount Vernon was in the town of East Chester, in the county of Westchester and state of New York, comprised within the following boundaries, namely: Commencing at a point in the center of Bronx River at the intersection thereof with what was formerly the northerly boundary line of the incorporated village of South Mount Vernon; running thence generally in an easterly direction along what was formerly the northerly boundary line of the said incorporated village of South Mount Vernon to Eleventh Avenue and Bronx Place therein; thence southerly along the westerly side of Eleventh Avenue to Mundy Lane; thence southerly along the westerly side of Mundy Lane to the Kings Bridge Road; thence due south to a continuation of the northerly boundary line of the city of New York; thence easterly along said continuation of the northerly boundary line of the city of New York to Hutchinson River or Creek; thence northerly along the center line of said Hutchinson River or Creek, as the same turns and winds, to a point as far north as the northernmost point in the town of Pelham, in said county of Westchester; thence westerly along a line extending across the town of East Chester parallel with the said northern boundary line of the city of New York to the center of the Bronx River; thence southerly along the center of the Bronx River, as the same turns and winds, to the place or point of

beginning; shall continue to be and shall be a city known as the "City of Mount Vernon"; and the citizens of this state from time to time inhabitants within the aforesaid limits shall be a body corporate and politic of the name of the "City of Mount Vernon" and as such shall have all the rights, powers and privileges conferred by the general statutes of this state upon municipal corporations, as well as those conferred by this act, which act shall be known as the "Charter of the City of Mount Vernon."

SECTION 2. Said city shall have a common seal and may sue and be sued in its corporate name.

SECTION 3. In this act the word "law" refers to the constitution of this state and to the acts of the legislature.

The word "ordinance" refers to the acts of the board of commissioners hereinafter provided for and to ordinances of the city in force when this act becomes operative.

The term "regulation" refers to the acts of the several commissioners and to the rules and regulations of any department or head of department of the city in force when this act becomes operative.

SECTION 4. No person shall be incompetent as judge, justice, witness or juror, in any action or proceeding in which the city is a party interested, by reason of his being an inhabitant or freeholder of the city.

SECTION 5. No action or special proceeding on contract or in tort shall be prosecuted or maintained against the city, unless it shall affirmatively appear from the complaint or other moving paper and upon the trial or hearing, that at least sixty days have elapsed since the claim upon which the action or special proceeding is founded was presented to the board of commissioners for adjustment, and that such claim has not been paid. Within said period of sixty days from the time of presentation, said board may require the person or persons presenting such claim to be sworn before them and examined under oath orally as to any facts relating to said claim. No action or special proceeding shall be prosecuted or maintained against the city for the recovery of damages for a personal injury founded on tort, for which it is alleged the city is responsible, unless the notice of claim hereinbefore required is presented within three months after the injury is alleged to have been received; which notice must be in

writing and verified by oath of the claimant, and must describe the time, place, cause and extent of the injury, so far as then practicable. Should such injury result in death, claim may be filed at any time within six months after the death of the party injured.

SECTION 6. No costs, fees, disbursements, or allowances shall be recovered in any judgment against any officer or authorized agent of the city where the city would be liable to respond to any such officer or agent, unless the claim, whether in contract or in tort, upon which judgment is founded, shall have been presented for payment to the board of commissioners, as provided in the preceding section; except that when such officer or agent shall answer and litigate or defend such claim, action or proceeding, such defendant shall be liable for costs in all respects as in cases where the claim is presented as aforesaid more than thirty days after action is commenced. No bond or undertaking shall be required on the part of the city in any action or proceeding wherein the city is a party. No execution shall be issued on any judgment recovered against the city or any officer for whose acts it is liable; but the board of commissioners, within sixty days, exclusive of the time during which an appeal may be pending, after the final recovery of any such judgment, must cause a warrant to be issued for the amount thereof, payable with interest on the first day of March after the next annual tax levy, which warrant shall be negotiable, and said board shall include the amount necessary to pay such warrant with the interest thereon in the next annual tax levy, in addition to such other sums as are authorized by law.

SECTION 7. The city shall be liable for its existing bonded debt, as well as for any remaining bonded debt of the village of Mount Vernon and of the town of East Chester, for which the city is liable at the date when this act becomes operative, and shall pay and discharge the annual interest accruing thereon and the principal, as the same shall fall due.

SECTION 8. All ordinances and regulations now in force in the city, not inconsistent with this act, shall continue in force until repealed.

SECTION 9. Until the city shall publish an official record, there shall be designated by the board of commissioners one or

more newspapers published within the city, to be known as the official newspapers; and all ordinances imposing a penalty, all ordinances of class mentioned in section 124, and all notices required by law or ordinance to be published, shall be published therein on a date to be fixed by the board. Ordinances imposing a penalty shall not take effect until the expiration of ten days after the date of publication; those of a class specified in section 124 shall not take effect until the expiration of thirty days after the date of publication. The board shall designate a day in each week when official notices shall be published, and may from time to time change such designation. When the city shall publish an official record such publication shall be made therein.

SECTION 10. Except as hereinafter otherwise provided, all officers and employes of the city shall continue in office or employment at the same compensation which they now receive until otherwise ordered by the board of commissioners or the commissioner to whose department they may be assigned.

SECTION 11. Upon the qualification of a majority of the commissioners hereinafter named the following officers of the city shall vacate their offices: The comptroller, the city treasurer, the justices of the peace, the receiver of taxes, the assessors, the aldermen, the president of the board of education and the school trustees elected in June, 1910, the commissioner of public works, the corporation counsel, the city clerk, the police commissioner, the police surgeon, the fire commissioners, the commissioner of charity, the board of health, the health officer, the civil service commissioners, the constables, and the pound master. At the election to be held in November 1910, no successors to any of the above officers who may be elective officers shall be elected; but when the majority of the commissioners hereinafter referred to shall have qualified and entered upon their terms of office, it shall be deemed that within the meaning of section 5 of the Public Officers' Law, the successors of these officers have been chosen and qualified.

SECTION 12. The incumbents of the offices of comptroller, city treasurer, receiver of taxes and assessors, whose terms are curtailed by the provisions of the preceding section, shall be employed by the city until the expiration of the terms for which they were elected, at salaries not less than those to which they were entitled when so elected. After January 1st, 1911, they

shall perform the duties which may be assigned to them by the board of commissioners or by the commissioner in whose department they may be employed. Such employment shall not confer any right under the Civil Service Law to be retained in the employ of the city after the date when the terms aforesaid expire.

SECTION 13. The officers of the city shall be five commissioners, one of whom shall be designated the mayor; five supervisors, who shall be members of the board of supervisors of the county of Westchester; a city judge; an acting city judge; a corporation counsel; five school trustees; a clerk of the city court; and a marshal of the city court.

SECTION 14. After this act takes effect, the mayor then in office shall exercise only the power conferred upon the mayor herein. At the annual election to be held in the year 1910, there shall be elected to take office January 1st, 1911, a commissioner of public works, whose term shall expire at midnight on December 31, 1912; a commissioner of finance, whose term shall expire at midnight, December 31, 1913; a commissioner of public safety, whose term shall expire at midnight, December 31, 1914; a commissioner of assessments, and supplies, whose term shall expire at midnight, December 31, 1915. At the election preceding the expiration of the term of the present mayor his successor shall be elected to serve for a period commencing on the expiration of such term and continuing until the expiration of five years after the 31st of the following December. Thereafter the successor of the mayor and of each of the said commissioners shall be elected to serve for five years, so that every year the mayor or one commissioner shall be elected to serve for five years. Except as hereinafter otherwise provided, vacancies, arising otherwise than by expiration of term of service, shall be filled until the 31st day of December which shall be more than three months after the date of the occurring of such vacancies, by vote of the remaining members of the board of commissioners; and at the annual election which shall occur immediately preceding the said 31st of December, there shall be elected a successor for the remainder of the unexpired term.

At the election to be held in November, 1911, there shall be elected from the city at large, five supervisors, to serve until December 31, 1913; thereafter their successors shall be elected from the city at large to serve for two years.

The city judge and acting city judge in office when this act goes into effect, shall continue in office until the expiration of the term of the present city judge. At the election preceding the expiration of such term, there shall be elected from among counsellors at law, who are themselves electors within said city, to serve for a period commencing at the end of such term and continuing until the expiration of six years after the 31st of the following December, a city judge and an acting city judge; thereafter their successors shall be elected to serve for terms of six years. The city judge shall not, during his term of office, practice in the courts of this state as an attorney and counsellor at law. The acting city judge may practice in any court in which he is qualified to practice, except the city court.

The city judge shall appoint to serve during his pleasure the clerk of the city court and the marshal of that court.

The board of commissioners, as soon as organized, shall appoint a counsellor at law, to be corporation counsel to serve during the pleasure of the board.

The election for school trustees shall be held on the first Tuesday in June and those entitled to vote for school officers by the laws of the state, shall be entitled to vote thereat. At the school election in June, 1912, five trustees shall be elected from the city at large to serve, one for five years, one for four years, one for three years, one for two years, and one for one year; thereafter their successors shall be elected to serve for a term of five years.

Vacancies occurring in the office of school trustee shall be filled by the remaining trustees, as hereinafter provided; vacancies in the office of supervisor shall be filled for their unexpired terms by the board of commissioners, whose votes shall be recorded in the manner in which ordinances are hereinafter required to be recorded; vacancies in the office of city judge or acting judge shall also be so filled, but only until the 31st day of December following the next general election day, which shall occur at least thirty days after the vacancy occurs; and a successor shall be elected by the people on said election day for the full term of six years.

SECTION 15. The mayor or a commissioner may be removed by the governor for cause after a hearing. The city judge or acting city judge may be removed by the appellate division of the supreme court, sitting in the judicial department in which the

city is situated, for any cause by the appellate division deemed sufficient after a hearing, which may be had before said appellate division or a referee appointed by it. The school trustees may be removed as hereinafter provided. All other officers except as otherwise provided, may be removed for cause after a hearing, by a vote of the board of commissioners recorded in the manner in which ordinances are hereinafter required to be recorded.

SECTION 16. The mayor shall receive a salary of two thousand five hundred dollars per annum; each commissioner two thousand dollars per annum; the city judge six thousand dollars per annum; the acting city judge one thousand five hundred dollars per annum; such salaries to be paid monthly. The school trustees shall receive no compensation. All other officers and employees of the city shall receive such compensation as shall from time to time be fixed by the board of commissioners.

SECTION 17. No officer or employee of the city shall receive to his own use any fees, emoluments or compensation other than his salary; but where entitled by law, ordinance or regulation to charge a fee for his services, shall charge and collect the full amount to which he may be entitled and account monthly, and if so required by the mayor, daily, and shall pay over such fees to the commissioner of finance daily.

SECTION 18. Every officer and employee of the city shall before entering upon his duties, file in the office of the mayor the constitutional oath of office.

SECTION 19. The mayor and each commissioner shall file in the office of the mayor a bond in the sum of fifty thousand dollars, conditioned for the faithful performance of his duties as such officer. Other officers and employees of the city shall file bonds whenever required so to do by the board of commissioners. The reasonable cost of all of said bonds when approved by the board, shall be paid by the city.

SECTION 20. No person shall be qualified to be an officer of the city, as designated in this act, unless he shall be a citizen of the United States, and a resident of the city, and shall have been such for three years prior to his election or appointment as such officer. No person shall be eligible to the office of mayor or commissioner, unless he shall also be a taxpayer and shall have

been the *bona fide* owner of real estate situate in the city continuously since the date on which this act becomes law, or if more than one year has elapsed since that date, then for a period of at least one year immediately prior to his election.

TITLE II.

OF THE BOARD OF COMMISSIONERS.

SECTION 21. The term "commissioners" wherever used in this act shall include the mayor. The mayor and the four commissioners shall constitute the board of commissioners of which the mayor shall be the presiding officer.

SECTION 22. The board shall possess all the ordinance-making power of the city and all of the executive power of the city not vested in any one of the commissioners by law or by ordinance.

SECTION 23. The acts of the board shall be called ordinances, shall be passed at a regular or duly called special meeting, shall always be in writing entered on the ordinance book, and signed with the autograph signatures of at least three of the commissioners; and the signatures of four commissioners shall be necessary to confirm the budget or to pass any ordinance of the classes specified in section 124 of this act. The ordinance book shall be kept under the direction of the mayor, shall be open for the inspection of any citizen of the city on every day except Sundays and public holidays, from eight o'clock in the morning until five o'clock in the afternoon, and at least two evenings during the week until nine o'clock.

SECTION 24. The commissioners shall make rules not inconsistent with this act regulating the time when they shall assemble for the purpose of discussing and transacting business. They shall regularly assemble at least twice in each week, which meetings shall be after five o'clock in the evening, and shall be public.

SECTION 25. The board shall have power to enact and enforce ordinances necessary or desirable to protect the lives, health and property of the inhabitants of the city, to prevent and summarily abate nuisances, and to preserve and enforce good gov-

ernment, order and security of the city and its inhabitants; and to enact and enforce any and all ordinances upon any subject, provided that no ordinance shall be enacted inconsistent either with the laws of this state or with the provisions of this act; and provided further, that the specification of the particular powers hereinafter conferred shall never be construed as a limitation of the general powers herein granted. It being intended by the act to grant to and bestow upon said board, as the representatives of the inhabitants of the city of Mount Vernon, full power to govern said city; and it shall have and exercise all the powers of municipal government not prohibited by this act or by some general law or the constitution of this state.

SECTION 26. For the purpose of specification and extension of the powers conferred by the last section, and not for the purpose of in any way limiting the same, except as in this act expressly stated, power is hereby conferred upon the board to enact ordinances and to provide for the enforcement thereof by fine not to exceed one hundred dollars, or imprisonment in a county jail for not to exceed thirty days where proper, or to enforce the same in any other lawful way that the board may deem necessary, relating to the following subjects:

(1) To purchase, hold and sell property, real and personal, for any public purpose deemed by the board necessary or advantageous to the interest of the city; and to maintain and care for all property of every kind or nature, belonging to the city.

(2) To make such provision incidental to the form and manner of the making of annual assessments of all property within the city, not inconsistent with the Tax Law of the state.

(3) To provide that taxes shall be levied upon all taxable property, real and personal, within the city.

(4) To determine what public improvements shall be assessed wholly or partly upon the lands benefited thereby, and in case the board determines that only part of the cost of such improvement is to be assessed upon the lands benefited, to determine what part shall be so assessed; to fix the area within which the property is to be subject to any such assessment, and to determine the rate thereof, which may, in the discretion of the board, be varied, according to its estimate of the amount of benefit to the property assessed.

(5) To remit unpaid assessments and to compromise and settle any matters in dispute relating to unpaid assessments, and to bind the city by such compromise.

(6) To levy license taxes, provided that no such tax be imposed upon the carrying on of any business licensed under the Excise Law of the state.

(7) To borrow money on the faith and credit of the city for any public purpose deemed desirable or necessary by the board, including an amount equal to the amount of unpaid taxes and assessments due the city, and to issue bonds therefor within the limits fixed by the constitution of the state; to prescribe the rate of interest to be paid on such bonds, and to sell the same for the best price obtainable, not less than par; provided that all bonds issued to pay for permanent improvements must mature not later than forty years from the date of their issue; and all other bonds, including those issued in lieu of unpaid taxes and assessments, shall mature not later than three years from the date of their issue.

(8) To transfer public moneys standing to the credit of special appropriations whenever they shall be no longer required for or applicable to the same, to the general fund, and draw therefrom and expend such sums as they may deem proper, for any purpose for which public money may be lawfully applied. Said general fund shall consist of all balances so transferred and all revenues and money coming to the city, not otherwise specifically appropriated.

(9) To designate banks or trust companies within or without the city, in which each of the public funds of the city shall be deposited; to contract for the rate of interest to be paid thereon, and to take bonds from such depositories for the safe keeping of such funds.

(10) To prescribe the form and manner of keeping the accounts of the transactions and affairs of the city, and records of any other matters deemed desirable or necessary.

(11) To prescribe the number and compensation of all officers and employees of the city not specially provided for in this act.

(12) To employ and regulate the term of service and compensation of, special counsel for the city, other than the corporation counsel and his subordinates, when deemed advisable.

(13) To receive and pass upon all claims against the city, and to settle, compromise or submit to arbitration, any claim against the city or any claim due the city, and to bind the city thereby.

(14) To grant franchises to be exercised within the city.

(15) To maintain a police force and to provide for all necessary salaries and expenses thereof; provided that the members of the police force on the day this act goes into effect shall not be removed, reduced in grade, or their salaries reduced, except for cause after a hearing before the commissioner of public safety.

(16) To preserve the peace, to prevent brawls, and to preserve good order and decency in all public places.

(17) To regulate and prohibit street assemblages; to arrest, prohibit and punish all vagrants and disorderly persons; to suppress gambling.

(18) To regulate what animals may be kept within the city; to prohibit the keeping therein of particular kinds of animals; and to regulate or prohibit the running of animals at large within the city.

(19) To provide a pound within the city; to provide what animals shall be taken thereto or confined therein; to direct the disposition to be made of such animals; and provide what fees shall be paid before releasing any animal therefrom.

(20) To regulate or prohibit public bathing or bathing in public places within the city.

(21) To prescribe the limit of speed beyond which locomotives, cars, automobiles, wagons or other vehicles, sleighs and animals shall not be permitted to be driven.

(22) To regulate by license, or prohibit, the exhibitions of any circus, caravan, theatre, curiosities, tricks of legerdemain, or other shows or entertainments within the city.

(23) To regulate the exhibition of danger signals in the city and to prescribe the form, manner, and time of exhibiting the same.

(24) To regulate or prohibit the sale or use of gunpowder, dynamite or other explosives within the city.

(25) To regulate or forbid the ringing of bells, the blowing of horns, the explosion of fireworks, or the firing of firearms in or into all public places in the city.

(26) To require the construction and the proper maintenance of sidewalks by the owners of abutting property.

(27) To provide, at the expense of the owners thereof, for the fencing, draining, and filling of all lots wherever deemed necessary.

(28) To act as fence-viewers.

(29) To maintain a force for the extinguishment and prevention of fires; and to provide for all necessary salaries and expenses.

(30) To prescribe the fire limits.

(31) To regulate the use of lights in stables and dangerous places.

(32) To regulate the character of construction of all buildings, and require and regulate the removal of unsafe buildings; to enact, amend and repeal a building code and all ordinances necessary to carry the same into effect, and to enforce observance thereof.

(33) To remove nuisances and clean unclean places.

(34) To regulate or prohibit the construction of slaughter houses and the slaughtering of animals within said city.

(35) To provide for the removal of all decayed matter.

(36) To provide for a record of the births, deaths and marriages within the city.

(37) To provide hospitals and pest-houses and maintain the same.

(38) To provide for all things meet and necessary to protect the lives and health of all persons in the city, and to exercise all the powers now or at any time hereafter conferred upon boards of health in cities by any general law.

(39) To establish, amend and repeal a sanitary code, and all ordinances necessary to carry the same into effect and to enforce observance thereof.

(40) To regulate and prescribe plans and methods for plumbing and drainage of property within the city, and to require the drainage and plumbing of all buildings and premises in the city to comply therewith.

(41) To exercise within the city all the powers given by law to the commissioners of highways of towns, and to maintain and keep in repair all roads and bridges.

(42) To open, grade, regrade, maintain, alter, pave, repave and close streets, alleys and public areas.

(43) To locate and fix the grade of streets, alleys and public areas, prior to the time of acquiring title and opening thereof.

(44) To provide for the removal of dirt, snow and other encumbrances from sidewalks, and to require the owners of abutting property to remove the same, and in default thereof, to provide for the removal thereof, and to add the cost of such removal to the amount of the next succeeding tax levied against such property.

(45) To regulate the use of public streets and public places.

(46) To provide for the maintenance and repair of streets by railroad companies and other corporations occupying, opening or using the same.

(47) To regulate the laying of pipes, the construction and placing of fences, wires, tracks, posts, telegraph poles, etc., and to require any wires now or hereafter in or over the streets, to be placed in conduits under the street.

(48) To prevent and remove encumbrances and encroachments on streets and public places.

(49) To regulate street lighting.

(50) To provide a city hall and other public buildings by renting, purchasing or constructing the same.

(61) To fix boundaries and establish monuments.

(52) To make maps and surveys of the city, its streets, public buildings and public places.

(53) To accept the dedication of land for streets, parks and other public purposes, provided the location thereof shall have been duly fixed by proper monuments.

(54) To create and maintain a sewage disposal plant and sewers, and require all buildings and other places in the city to be connected therewith.

(55) To contract with the state, with any county thereof, or with any town or city therein, for the construction of outlet or trunk sewers, and to contract with any adjoining town or city for the maintenance of connecting bridges.

(56) To establish and maintain public parks and play grounds.

(57) To exercise the power of eminent domain in the manner provided in the Condemnation Law.

(58) To provide relief and assistance for the poor.

(59) To require and prescribe the form of reports to be rendered by all public service corporations doing business in the city.

(60) With the consent in each instance of a majority of the electors of the city voting at a special election to be called for such purpose, to purchase or construct water plants, gas plants, conduit systems, electric light plants, telephone plants, or railroads, within the city, and thereafter to maintain and operate the same and regulate the sums to be charged for the service rendered.

(61) With the consent in each instance of a majority of the electors of the city voting at a special election to be called for such purpose, to increase any of the salaries fixed in section 16 of this act.

SECTION 27. The board of commissioners are hereby directed to perform the following duties:

(1) To divide the city into election districts in such manner that the boundaries of such districts shall be street lines, the

territories thereof shall be contiguous, and no district shall have cast within its boundaries at the preceding election less than three hundred nor more than six hundred votes; and from time to time to alter said districts.

(2) To approve, amend and adopt the budgets prepared by the mayor and the board of education.

(3) To levy taxes in each year sufficient to provide for:

(a) All sums required to be raised within the city by the board of supervisors of the county of Westchester.

(b) The interest on all outstanding bonds of the city, and the necessary installments due during the tax year upon the sinking funds.

(c) The expenses of operating the government of the city for the current tax year.

(d) The payment of obligations issued for emergency expenses.

(e) The payment of any other accruing obligations of the city resulting from anything contained in this act or any lawful act of the board.

(4) To provide sinking funds sufficient to pay the principal of all bonds at or before their maturity; and the board may apply such sinking funds to the purchase of any outstanding bonds of the city. When the amount of bonds issued in lieu of unpaid taxes and assessments shall be equal to the amount of taxes and assessments remaining unpaid, the board shall cause all moneys received for such unpaid taxes and assessments and interest thereon to be held exclusively for the payment of such bonds and the interest thereon.

(5) To enforce all provisions of the Civil Service Law and to appoint a local board of civil service commissioners.

(6) To maintain the present police and school teachers' pension funds as now provided by law.

(7) To fix fees to be charged by the officers and employees of the city for official services.

(8) To perform all the duties imposed upon it in relation to taxes, assessments or local improvements as hereinafter in this act set forth.

SECTION 28. The board of commissioners shall, at least once in each half year, employ a certified public accountant of this state, not otherwise in the employ of the city, to audit the accounts of the mayor, and to make such additional audits as the board may direct. The reports of such audits shall be made in writing to the board and shall be open to the public.

TITLE III.

OF THE COMMISSIONERS GENERALLY.

SECTION 29. Neither the mayor nor any commissioner shall be appointed or elected to fill any other office or employment connected with the government of the city, except that of mayor or commissioner, during the term for which he was elected; nor shall any of them be in any way or any manner, directly or indirectly, interested in any contract to which the city is a party; and any such contract in which either the mayor or any commissioner may be or become interested shall thereby and thereupon be and become void.

SECTION 30. The mayor and each commissioner shall possess and may exercise within the city the powers of a magistrate, and may administer oaths for general purposes and take acknowledgments and proofs of the execution of deeds.

SECTION 31. Within the limits prescribed by the board of commissioners, each commissioner shall appoint his subordinates and may remove the same, subject only to such restrictions as may be prescribed by law.

SECTION 32. The mayor and each commissioner shall keep an order book, in which all general regulations made by him shall be entered and signed by him, which book shall be open for inspection during office hours.

SECTION 33. The mayor and each commissioner may make regulations not inconsistent with law or ordinance, for the government of his subordinates and the transaction of business in his department. These regulations, until repealed by law, ordi-

nance or subsequent regulations, shall have the force of law. Obedience to such regulations on the part of subordinates may be enforced by fine in amount not to exceed thirty days' pay, by suspension without pay for not to exceed thirty days, by reduction in grade, or by dismissal.

SECTION 34. Each commissioner shall, not later than the first day of November in each year, prepare and submit to the mayor an itemized estimate of the revenues and expenses of his department for the ensuing year.

SECTION 35. The mayor or any commissioner may perform any duty imposed upon him, except that of sitting as a member of the board, or of making regulations, or performing the functions of a magistrate, either personally or through any duly authorized subordinate.

TITLE IV.

OF THE MAYOR.

SECTION 36. The mayor shall have the general supervision of the affairs of the city and of the enforcement of the laws and ordinances; he shall see that the officers properly perform their duties; and shall perform all the functions of auditor and controller of the city.

SECTION 37. He shall consolidate the estimates of revenues and expenditures submitted by the several commissioners and prepare the annual budget.

SECTION 38. He shall make such regulations as will assure his being advised of all receipts of moneys by, or for account of, the city, and of the proper deposit thereof; he shall cause all accounts and claims against the city to be examined, and no payments of city moneys shall be made except by warrant or check countersigned by him.

SECTION 39. He shall prescribe the forms of books, records, vouchers and checks, to be kept and used by the officers of the city, and the forms on which all accounts or claims against the city must be made.

SECTION 40. He shall, in conjunction with the commissioner of finance, have charge of the issue and redemption of

bonds, of the payment of interest thereon, and of the sinking funds.

SECTION 41. He shall audit the accounts of all officers of the city at least once in each half year, and may audit any of them whenever he may deem proper. He shall report the results of his audits to the board in writing within ten days after their completion, which reports shall be public records.

SECTION 42. He shall cause to be kept under his direction the ordinance book and all other records of the board of commissioners.

SECTION 43. His office shall be an office of record, and all papers and documents required by law to be filed in a town or city clerk's office shall be filed in his office. He shall designate a subordinate, who, under his direction, shall perform all the functions required by law to be performed by a town or city clerk.

SECTION 44. He shall cause to be kept under his direction the records of the births, deaths and marriages, properly indexed, and cause all the duties in connection with the preservation of such vital statistics and reporting the same to the state or county authorities, to be complied with.

SECTION 45. He shall approve all proper bonds running to the city, as to form and sufficiency of their sureties, except his own, which shall be approved by the commissioner of finance.

SECTION 46. He shall have charge of the issue of all licenses not otherwise provided for, and may revoke the same.

SECTION 47. He shall have charge of all matters relating to elections.

SECTION 48. He shall receive all petitions of electors provided for in title XIII of this act, and cause the same to be verified and duly certified as required.

SECTION 49. He shall, upon the nomination of the chairman of the city committee of each of the two principal political parties within the city, appoint inspectors of election, poll clerks, ballot clerks, and other election officers for each election district within the city; and may, on request of said chairman, remove the same, and on like nomination, appoint others in their places.

SECTION 50. In case of a petition for the recall of the mayor, the duties provided for in the three preceding sections shall be performed by another commissioner to be designated by the board.

TITLE V.

OF THE COMMISSIONER OF PUBLIC SAFETY.

SECTION 51. The commissioner of public safety shall have the control and management of the police force and of all police stations; and of the force and apparatus for the prevention and extinguishment of fires, and of all buildings used in connection therewith. He shall enforce all laws, ordinances and regulations relating to public peace and safety and the public health, and have charge of all hospitals, pest-houses, and the public pound; and shall within the city, exercise all the authority and perform all the duties of the overseers of the poor in towns.

SECTION 52. The commissioner or any police officer shall have the power to make arrest without warrant for any misdemeanor committed in his presence, for any violation of an ordinance or for disorderly conduct committed in his presence; and where there is reasonable ground to believe that a felony has been committed, the commissioner or any such officer may arrest any one who he has reasonable ground to believe has committed such felony or become accessory thereto.

SECTION 53. Any member of the police force who may become insane or of unsound mind or otherwise disabled so as to be unable or unfit to perform full police service or duty may be removed and dismissed from the police force by the commissioner of public safety. Any member of the police force who has served as a member thereof for a period of twenty-five years shall, upon his request, or may, at the option of the commissioner without such request, be retired from such force. Except as in this section otherwise provided, no member of the police force shall be fined, removed, suspended or dismissed from the police force until written charges shall have been made or preferred against him, nor until such charges have been examined, heard and investigated before the commissioner at a public hearing, upon such reasonable notice to the member charged and in such manner of

procedure as the commissioner may by regulation from time to time prescribe. Any member of the police force removed for disability under the provisions of this section, shall be entitled to apply to the trustees of the police pension fund for a pension under the provisions of section 4 of chapter 459 of the laws of 1904, and any member retired shall be entitled to a pension as provided for in section 6 of that act.

SECTION 54. No person shall be appointed to the police force who at the time of his first appointment to such force is over thirty years of age or who is not a citizen of the United States, or who has ever been convicted of a crime, or who cannot understandingly read and write the English language.

SECTION 55. The commissioner of public safety shall have power to issue subpoenas to compel the attendance of witnesses upon any proceedings authorized by law, ordinance or regulation to be taken by him. Said commissioner, and such subordinates as he may designate by regulation, are, and each one of them is, hereby authorized and empowered to administer oaths and affirmations to any person appearing in any matter or proceeding authorized as aforesaid, and to take any depositions necessary to be made under the rules and regulations of the police department, for the purpose embraced in this act. Any wilful and corrupt false swearing by any witness or person appearing in any matter or proceeding under the said rules and regulations, shall be deemed perjury and be punished in the manner prescribed by law for that offense. In case any person subpoenaed under this section shall fail or refuse to obey such subpoena, or refuse, when required to, to take the proper oath or affirmation, or to answer any other proper question, upon the presentation of satisfactory proof to a justice of the supreme court or the county judge of Westchester county, or the city judge of the city, it shall be the duty of the justice or judge to whom such presentation shall have been made, to issue an order returnable before him at an early day, requiring the person so failing or refusing, to show cause why an attachment should not be issued against him, and to adopt such other and further measures to compel the person to appear and testify, and to punish such disobedience, as if the matter were legally pending in the supreme court or the county court of said county, or the city court of said city.

SECTION 56. Neither the commissioner of public safety nor any member of the police force shall, under any pretense whatever, receive or share in any present, gift, fee, reward or emolument for services as a member of said police department, additional to his regular salary or his compensation; but the commissioner of public safety may allow any member of said police force, for meritorious or extraordinary service rendered by him, to retain for his own benefit any reward or present tendered him therefor.

SECTION 57. The commissioner of public safety or any member of the police force shall possess in every part of the state the common law statutory power of constables except for the service of civil processes, and any warrant for search or arrest issued by any magistrate of the state may be served in any part thereof by the said commissioner or any member of the police force, according to the terms thereof; and all the provisions of the penal code in relation to the giving and taking of bail shall apply under this section.

SECTION 58. He shall suppress, abate and remove any public nuisance detrimental to the public health; and in addition to other powers which he may possess by law, he is hereby empowered to issue his warrant whenever necessary to the sheriff of the county of Westchester, or to any police officer of the city, authorizing and commanding him to forthwith suppress, abate and remove such public nuisance; and the amount of expenses incurred in cleaning or emptying any vault or cesspool, and abating or removing any public nuisance, when certified by him to the board of commissioners, shall be paid by the board; and such amount shall thereupon be and become a lien upon the lot or premises whereon such public nuisance existed, or said vault or cesspool was cleaned or emptied, with interest thereon at the rate of ten per cent. from the date of payment; and the board may enforce the collection thereof by adding the same to the tax on said lot or premises for the ensuing year, or by action against the owner of such lot or premises, or against any person who may have created, permitted or maintained such public nuisance, or said vault or cesspool.

SECTION 59. He shall ascertain and declare the cost and expense of, and audit all bills and accounts for, any work, care or other expense bestowed upon private persons or property, or for

medical care, attendants, and the support of patients cared for or supported in hospital, pest-house or elsewhere, and return the same to the board of commissioners, who shall have power in any case in which they deem it proper to maintain an action therefor against any person liable for the payment thereof.

SECTION 60. He shall have power to do all things meet and necessary to protect the lives and health of all persons in the city in all sanitary matters, and in addition to the powers herein expressly granted, he may himself or through his duly authorized subordinates exercise all the powers now or at any time hereafter conferred by law upon health officers.

SECTION 61. Every practicing physician in the city, who shall attend a person sick or attacked with any contagious, infectious or pestilential disease, shall, forthwith, upon discovery by him, make report thereof in writing to the commissioner of public safety, and for neglecting so to do, shall be deemed guilty of a misdemeanor.

SECTION 62. The expenses of apprehending, examining, trying and committing offenders against any law of the state in the city and of their confinement, properly chargeable against the county of Westchester, shall be audited, allowed and paid by the board of supervisors of said county, in the same manner as if such expenses had been incurred in any town in said county.

SECTION 63. The chiefs and other officers of the force for the prevention and suppression of fires may, if the board of commissioners by ordinance so provide, be elected by their subordinates; otherwise they shall be appointed by the commissioner of public safety in the same manner as his other subordinates are appointed.

TITLE VI.

OF THE COMMISSIONER OF PUBLIC WORKS.

SECTION 64. The commissioner of public works shall have charge of all streets, highways, bridges, sewers, and public parks within the city, and of the public buildings except as herein otherwise provided for; and shall, under the direction of the board of commissioners, make regulations covering the use and maintenance thereof, and shall see to it

that all streets, highways, bridges, sewers, public buildings and public parks are regularly and properly cleaned. He shall under the direction of the board have supervision of all public service corporations within the city. He shall have charge of, and it shall be his duty to cause, the removal of all ashes and refuse in the city. He shall enforce all ordinances and regulations relating to the construction of buildings in the city.

SECTION 65. He shall issue such licenses as may be necessary for the opening of streets and for the erection of telegraph and electric light poles, and street lights; for the laying of tracks; for the laying of pipes for the conveyance of gas, water, sewage, etc., within the city; and said streets shall not be poened nor shall anything be erected in said streets without his permission except by order of the board. It shall be his duty to see that said streets and public places are safely maintained and that all holes in streets are immediately filled and that all drains are at all times kept open.

SECTION 66. He shall have charge of and attend to the proper planting and care of shade trees throughout the city and of the removal of those that have become dead or otherwise objectionable. It shall be unlawful for any person to injure such shade trees, or cut the same without his permission.

SECTION 67. He shall prescribe the location of all street lights and shall require the corporation furnishing such street lights to locate and properly maintain the same.

TITLE VII.

OF THE COMMISSIONER OF FINANCE AND OF THE COLLECTION OF TAXES

SECTION 68. The commissioner of finance shall have charge of the fiscal affairs of the city, except as otherwise provided, and of the collection of taxes and assessments. He is especially charged with the execution of chapter 425 of the laws of 1908, relating to delinquent taxes.

SECTION 69. He shall receive all moneys due the city or any fund thereof including the school fund and pension funds, and deposit such receipts daily before four o'clock p. m. in the

depositories designated by the board; he shall have the custody thereof until finally disbursed by the city. He shall pay out moneys of the city whenever authorized to do so by law or ordinance, upon warrants or checks duly countersigned by the mayor.

SECTION 70. He shall report to the board upon the condition of the city treasury and the several city funds, whenever, and in such form as, the board may require; and shall present monthly, and for each fiscal year, a complete exhibit of the financial condition of the city, which exhibit shall be published in such manner as the board may direct.

SECTION 71. He shall, in conjunction with the mayor, have charge of the issue and redemption of bonds, of the payment of interest thereon, and of the sinking funds.

SECTION 72. When the board of supervisors shall have equalized the assessment rolls of the several towns of the county of Westchester, as provided by law, and declared and certified to the city the amount of tax to be levied in the city for county, state and general purposes, the commissioner of finance shall levy the amount of the said tax and cause the said amount to be paid to the county treasurer on the twentieth day of March in each year, or as soon thereafter as may be, and until so paid he shall deposit the same as provided in section 69 of this act.

SECTION 73. When the board of commissioners shall have confirmed the apportionment of taxes or assessments upon the assessment roll as hereinafter provided, the said assessment roll shall be delivered to the commissioner of finance, with a warrant annexed thereto, signed by the board or a majority of them, commanding him to collect the amount of said tax or assessment in the same manner as taxes are collected upon warrants issued by boards of supervisors to collectors of towns, except as in this act otherwise provided, and to make return thereof, and pay over the money as therein directed, together with all interest and percentage collected by him. Said warrant shall be returned at such time as the board shall direct, which time may, however, be extended by the board.

SECTION 74. The commissioner of finance, upon receiving any warrant for the collection of taxes or assessments, shall cause to be published once a week for four successive weeks, in the official city newspapers (or in case the city shall publish an

official daily record, then therein), a notice that he has received such warrant. Such notice shall designate his office hours, the place where he will attend to receive taxes or assessments, and the rate of interest and the rate of percentage to be paid thereon.

No interest shall be charged upon any tax or assessment paid within one month from the first publication of the notice. To all taxes or assessments paid thereafter shall be added interest at the rate of eight per centum per annum from the date of the first publication of said notice, which shall become a part of and be collected with said taxes or assessments.

SECTION 75. All provisions of law relating to collectors of towns, not inconsistent with this act, shall apply to said commissioner, except that he is not required to call personally upon or at the place of residence of any person to demand payment of a tax or assessment, and that he shall not collect taxes or assessments by distress and sale.

SECTION 76. The taxes on any real estate occupied by a person or a corporation other than the owner, may be paid by the occupant, and he has the right to collect the amount thereof, if paid by him, from, or set off the amount thereof against, the claim of the owner for rent. 1.

SECTION 77. Every inhabitant of the city having in his possession or under his control any taxable property as trustee, guardian, executor or administrator, shall be taxable on the amount thereof, and may charge the tax, when paid, against the estate of which he is the trustee, guardian, executor or administrator.

TITLE VIII.

OF THE COMMISSIONER OF ASSESSMENTS AND SUPPLIES AND OF TAX ASSESSMENTS.

SECTION 78. The commissioner of assessments and supplies shall have charge of the purchase and distribution of all supplies required by the city, except those for the schools, and render an account thereof to the board of commissioners half-yearly.

SECTION 79. He shall, within the city, possess the powers and perform the duties of assessors of towns of this state except as otherwise herein provided.

He shall cause to be prepared in the manner and form, as nearly as may be, as is prescribed by the Tax Law of the state, an assessment roll of all property within the city, and shall, in addition to the information by said law required, state separately the value of the personal property, the value of the land together with the improvements thereon and the value of the land exclusive of all improvements thereon.

On completing the assessment roll, which shall be done on or before the first day of September of each year, he shall deposit the same in his office, and cause to be published in the official city newspapers (or in case the city shall publish an official record, then therein), once in each week for two successive weeks, a notice that the assessment roll is completed and deposited in his office, where it may be examined for twenty days next after the first publication of such notice; and that he will attend during the last five of said twenty days, exclusive of Sunday, at his office, from ten o'clock in the morning until nine o'clock in the evening to review his assessments.

He shall have power, before and on such review, to insert the words "unknown owner" in the case of any property assessed by him when he shall not have been able to ascertain the name of the owner. For a valid assessment of any real property it shall be sufficient to give the lot number, if any, on any designated map, and the assessed value. An error in the name of the owner shall not invalidate the assessment.

During the aforesaid twenty days he shall review and correct said assessment roll, and within thirty days thereafter verify the same. During the time he is reviewing and correcting said roll, he shall have the power to insert therein any property liable to taxation, which may have been omitted therefrom, and the assessment therefor, after first giving to the owner thereof personal notice in writing of not less than five days, to attend at a time and place to be therein stated, and show cause why any specified corrections should not be made.

SECTION 80. He shall also in like manner assess the cost of all local improvements ordered by the board of commissioners, or by other competent authority, when the cost of such local

improvement, or any part thereof, is made a charge upon the property deemed to be benefited thereby.

SECTION 81. He shall, under the direction of the board of commissioners, correct all manifest clerical errors in the description or valuation of property in the assessment roll. The board shall thereupon confirm said roll, and shall cause to be made a correct copy thereof, certify the same and deliver it to one of the supervisors of the city, to be by him presented to the board of supervisors of the county of Westchester at their next meeting.

SECTION 82. When the board of commissioners shall have fixed a tax or approved the amount of an assessment, he shall cause to be apportioned and extended the amount thereof opposite the several valuations of real and personal property appearing in the assessment roll, in conformity as near as practicable with the provisions of law in respect to apportionment and extending of taxes by supervisors. When such apportionment shall be completed the board shall confirm the same; and the day, hour and minute of such confirmation shall be entered in its ordinance book; and from the moment of such confirmation, the taxes so embraced in such roll, as apportioned, shall be the first lien upon the property, respectively, against which the same is levied.

SECTION 83. Upon the application in writing of any person desiring to pay the tax or assessment on, or to redeem from sale for any unpaid tax or assessment, a part of any lot of land, or one or more lots of land, upon which, with other lots of land, a tax or assessment has been levied, the commissioner shall apportion, in writing, the tax or assessment on such lot or lots of land, or the amount for which the same shall have been sold, between the land upon which the applicant desires to pay the tax or assessments or to redeem, and the remaining part thereof; and like proceedings may be had thereafter as if the land had been separately assessed and a separate amount of tax or assessment levied upon each. Such apportionment shall be confirmed by the board of commissioners and shall be filed in the office of the commissioner of assessments.

TITLE IX.

OF PUBLIC IMPROVEMENTS.

SECTION 84. The board of commisisoners shall make the necessary surveys and examinations and prepare a plan of a system of sewers for that portion of the city not already sewered. Such plan shall consist of a map or maps with such specifications as shall be required to describe and locate such additional system, and may be prepared as a whole or in sections from time to time as the board may determine. When said plan, or any section thereof, shall have been completed and adopted by the board, the mayor shall so certify in writing thereon, affix the corporate seal of the city thereto, and the same shall then be filed in the office of the commissioner of assessments. After said plan, or any section thereof, shall have been so approved and filed, it may be altered by making, adopting, approving, certifying and filing a map, and if necessary a specification, showing such alteration in the manner above provided as to said plan or section. After the filing of said plan or section, all sewers to be constructed must conform as near as may be, to said plan or system.

SECTION 85. The regulating, re-regulating, grading, re-grading, paving, re-paving and graveling, of streets and highways, or any part thereof; the completion of the regulating and grading of all streets and highways, or any part thereof and of the bridges thereon, which may have been or may be laid out in the city by lawful authority; the construction, extension, enlargement and repair of sewers, drains, wells, fire cisterns, culverts and bridges; the procuring of pumps and hydrants for fire purposes; erecting pumps and hydrants and laying such water pipes, may be contracted for by the commissioner of public works, when the same have been duly authorized by the board of commissioners.

SECTION 86. The expense involved in the construction, extension, enlargement and repair of sewers, drains, wells, fire cisterns, culverts and bridges; the procuring of pumps, water pipes and hydrants for fire purposes; the erecting of pumps and hydrants, and laying such water pipes, shall be apportioned and assessed upon the several lots of land benefited thereby in proportion to the benefit which each shall derive from the improvement. The expense of re-paving streets shall be paid by the city. The expense of laying and maintaining sidewalks and curbs shall be

assessed against lots in front of which they are laid. The expense of grading, including the grading of sidewalks and of original paving, shall be divided into three equal portions, one portion shall be apportioned and assessed upon the several lots of land on one side of the street in proportion to their frontages; one portion shall be likewise apportioned against the lots of land fronting on the other side of the street; and one portion shall be paid by the city at large.

SECTION 87. The board of commissioners may direct curbs to be set and gutters to be made; the expense thereof shall be borne as directed in the preceding section.

SECTION 88. Prior to the contracting for any such work, a plan and an accurate specification of the work proposed to be constructed, must be prepared and placed in possession of the commissioner of public works for public inspection. The board of commissioners must, in all cases, cause to be prepared, and approve the specifications for constructing all sewers, drains, wells, fire cisterns, laying water pipes and erecting hydrants. The specifications for all other work mentioned in this title must also be prepared by direction of and approved by, the board of commissioners. The board shall then fix a district of assessment beyond which the assessment shall not extend, and cause to be published in the newspapers in which ordinances are directed to be published, a notice that on a day therein to be named, at least two weeks from the first publication thereof, it will act in relation to the work proposed to be constructed, and that in the meantime sealed proposals for constructing the work, with the names of sureties for the faithful performance thereof, will be received by the commissioner of public works. A description of such district shall form a part of such notice. Upon the day mentioned in the notice, or upon such subsequent day as the board may adjourn to for the purpose, the mayor or presiding officer shall, in the presence of the board, open such proposals, and the board shall determine which proposal is the most favorable. No proposals shall be considered unless accompanied by the written consent of two sureties, conditioned that if the proposals be accepted, they will execute and deliver a bond with the bidder in a penalty to be fixed by the board, conditioned for the construction of the work at the price and upon the terms proposed, according to the plans and specifications therefor, within such

reasonable time as the board may limit, and subject to the supervision and approval of the commissioner of public works, as the specifications shall provide. The board of commissioners may then direct the construction of the proposed work, or refuse so to do, and accept the most favorable proposal, or reject all of said proposals.

SECTION 89. The commissioner of assessments shall make a report in writing of the assessment so made and deposit the same in his office, and cause to be published in the newspapers in which ordinances are directed to be published, once in each week for two consecutive weeks, a notice that the report has been completed and so deposited and that he will, at a time and place therein to be specified, not less than ten days from the first publication of such notice, review that report and that at such time and place the parties interested can be heard; and the commissioner of assessments shall, at such time and place, hear the parties interested, and thereafter review the report, correct the same where proper, sign and file the same in his office, with all the objections in writing which have been left with him by the parties interested.

SECTION 90. The board of commissioners shall have power, on the written petition of any party interested, to alter the grade of any street or highway, or of any part thereof. Before determining to make such alteration, it shall cause to be made and deposited in the office of the commissioner of assessments a profile showing the intended alteration, and cause to be published in the newspapers in which ordinances are directed to be published, once in each week, for two successive weeks, a notice that such petition has been received and such profile so deposited, setting forth their intention to make such alteration and requiring all persons interested to present their objections, in writing, to the board of commissioners, at a time and place to be mentioned therein, not less than two weeks from the first publication thereof. The board may, at any time within one year thereafter, by a vote of four of its members, so alter such grade. In case the owner of any building or other structure, or his authorized attorney, shall file with the commissioner of assessments, within six weeks after the vote of the board altering the grade of any street or highway, a claim in writing, for damages to such building or other structure arising from such alteration,

the board must fix an assessment district and cause application to be made to the county court of Westchester county, or to the supreme court, at a special term thereof, within the judicial district in which the county of Westchester is situated, for the appointment of three commissioners to estimate and assess such damages. All claims for damages so filed shall be considered and disposed of in the same proceeding. No building or other structure shall be deemed to have sustained damage by reason of such alteration of grade, unless such building or structure shall have been built with reference to, or to conform with, previously established grade.

SECTION 92. Upon a petition of the owners of a majority of the front feet of land fronting upon any street or portion thereof, the board of commissioners may discontinue such public street or highway or portion thereof, as shall appear to be unnecessary. Such petition must contain a description of the street or highway or part thereof proposed to be discontinued, and be accompanied by a map showing the street or highway proposed to be discontinued and its connection with other streets or highways; or if only a part of a street or highway, then its connection with the remaining portion. Before acting thereon, such petition and map must be deposited with the commissioner of assessments, and the board must cause to be published in the newspapers in which ordinances are directed to be published, once a week, for three successive weeks, a notice that such petition has been received, and that a map showing the proposed discontinuance, and a description of the street, or part of street proposed to be discontinued, has been deposited with the commissioner of assessments, and that upon a day to be stated in such notice, at least twenty days after the first publication thereof, it will, if it deem proper, order such discontinuance to be made. Unless a majority of the owners of land fronting on such street, shall, on or before the day specified in said notice, remonstrate against such discontinuance, the board upon the day specified in said notice, or upon a subsequent day, to which the matter may be postponed, direct such discontinuance by an order in writing, signed by at least four members, sealed with the corporate seal and filed in the office of the commissioner of assessments with the map accompanying such petition. The lines of the street shall thereupon conform to the change made by such discontinuance. The board may, as a condition for the granting of such

order of discontinuance, require the owners of the land within the street or part thereof to be discontinued, to pay the expense of such proceeding.

SECTION 93. In case the owner of any building or other structure, or of any land affected by any such discontinuance, or his authorized agent or attorney, within six weeks after the filing of such order of discontinuance, shall serve upon the commissioner of assessments a claim, in writing, for damages by such owner, suffered by reason of such discontinuance, in respect to such building, structure or land, the board of commissioners must establish an assessment district, and cause application to be made to the county court of Westchester county or to the supreme court, at a special term thereof, for the appointment of three commissioners to estimate and assess such damages. Like proceedings as to such claim shall thereupon be had, as is in this title, providing for estimating and assessing the expense for the opening and widening of streets. In case the person making such claim be not in possession of the land, building or structure, in respect to which such claim is made, or in case the board of commissioners shall deem such case unfounded, it may require the claimant to file with the mayor a bond with sufficient sureties to be approved by him, conditioned to pay all costs, expenses and disbursements which may be incurred by the city in such proceedings, in case no award for damages shall, by such commissioners be made in favor of such claimant; and until such bond be filed, the board may suspend such proceedings. In case two or more persons shall make separate claims for damages, within said six weeks, all such claims shall be considered and disposed of in the same proceeding.

SECTION 94. Any person aggrieved by such order of discontinuance may, at any time within sixty days after such order shall have been filed in the mayor's office, appeal therefrom to the supreme court by a notice in writing, to be served upon the mayor; such appeal shall be heard at special term, and the court shall affirm or vacate such order as it may deem for the best, having due regard for the rights and interests of the traveling public, as well as the individuals affected thereby. No paper shall be read on such appeal, except the proceedings of the board of commissioners and such affidavits and objections as may have been served upon the mayor with the notice of appeal except to sustain the order of discontinuance.

SECTION 95. The expense of advertising and printing, and the compensation of all persons other than salaried city officers and employes necessarily employed in any proceeding under this title, is part of the expense thereof and shall be assessed as such.

TITLE X.

OF THE SCHOOL DISTRICT AND BOARD OF EDUCATION.

SECTION 96. All the territory included within the boundaries of the city shall constitute a separate school district within this state, and shall be designated as "the school district of the city of Mount Vernon." Such district shall be entitled to all the rights, powers, privileges, public moneys, and other benefits conferred by law, or other state authority, upon school districts, and shall be subject to all the rules, regulations, powers of inspection and superintendence, prescribed by law, applicable to school districts in cities, except as otherwise hereinafter provided.

SECTION 97. The affairs of the said school district shall be managed by a board of education composed of the school trustees; the mayor shall be the presiding officer thereof. The term of office of each trustee shall commence on the second Monday of August next following his election. A majority of the trustees shall constitute a quorum, and in the proceedings of the board, each trustee present shall have a vote; the mayor shall have only a casting vote when the votes of the trustees are tied. Vacancies in the board of education occasioned by the resignation, refusal to serve, death or removal of any of its members shall be filled by appointment by said board until the next regular school election, when the residue of the term, if any, shall be filled by election as hereinbefore prescribed.

SECTION 98. The board shall meet at least once in each month, which meetings shall be public. It shall keep a record of its proceedings, open to the public, in which all of its resolutions and votes shall be entered. It may employ, and remove at its pleasure, a clerk and such other subordinates for the administration of its business as may be deemed necessary, and fix their compensation. It may make regulations for its government and for the government of its employees. The records of the proceedings of the board or a transcript thereof, certified by the

mayor and its clerk, shall be received in all courts or places as *prima facie* evidence of the fact therein stated.

SECTION 99. The board of education and its successors shall possess all the powers conferred, and discharge all the duties imposed by this act, or by any general law of this state relating to school districts in cities, or relating to the board of education of such district, and not inconsistent with the provisions of this act.

SECTION 100. The board of education shall have the power, subject to the provisions of this act, to purchase, take, lease, hold or improve any real or personal estate, in trust for the school district, for the support and maintenance of public schools, or for any of the purposes of education in said city. It may also take, by gift, grant, bequest or devise, and hold, any real estate or personal estate, in trust for any of the purposes of education, art, or the purchase, support or maintenance of public libraries in said city, upon such terms as may be prescribed by the donor or donors and accepted by said board; and it may execute any trust for any of the purposes aforesaid, and provide for the proper execution thereof. The title of all the school houses, sites and lots located within the city, and personal property appertaining to the school-houses, shall be vested in the city.

SECTION 101. Subject to the provisions of this act, the board of education shall have power, and it shall be its duty:

(1) To establish and organize in said city, such and so many free schools, including night schools, as it shall deem requisite and expedient, and to change or discontinue the same at its discretion.

(2) To establish and maintain, whenever it shall be deemed expedient so to do, one or more high schools, trade schools, or other secondary schools.

(3) To organize, establish and maintain school savings banks under the authority of, and in conformity with, any general law of the state in regard to such or similar institution.

(4) To purchase or hire, sell or dispose of, school-houses, lots or sites, to alter, improve and repair school-houses and appurtenances, as may be deemed advisable.

(5) To purchase, exchange, improve and repair school apparatus, books, furniture and appendages, and to defray the necessary expenses attending the same.

(6) To have the custody and safe-keeping of the school buildings, lots, out-houses, books, furniture and appendages, and to see that the ordinances and by-laws of said city in regard thereto are enforced, and any violation thereof punished.

(7) To contract with, employ and fix the compensation of, a superintendent of instruction and all necessary teachers for the schools of the city, and at pleasure to remove them or any of them, under such rules and regulations as may be established by law, or by the department of public instruction of the state.

(8) To pay the salaries of superintendent and teachers out of any moneys appropriated or provided by law for that purpose.

(9) To defray the necessary contingent expenses of the board and district, including the wages of clerk, janitors, and other assistants and employes and incidental expenses.

(10) To expend all moneys raised by virtue of this act, or which may have been previously raised, for purchasing sites, erecting or enlarging school-houses, or for other purposes, in such manner as may be deemed advisable, but only for the purposes for which the same was raised.

(11) To take and appropriate land and other real property within said city for school purposes, when authorized so to do by the board of commissioners of the city.

(12) To license all teachers employed in the schools of the city, in the same manner, and with like effect in said city, as school commissioners of counties.

(13) To have, to the exclusion of all boards and officers, except the regents of the university and the superintendent of public instruction of the state, the entire supervision and management of the public schools of the city, and the right from time to time to adopt, alter, modify or repeal, as may be deemed expedient, rules and regulations for their organization, government and instruction, for the reception of pupils and their transfers from one school-room or school-house to another, for their advancement from class to class, as their degree of scholarship

shall warrant, and generally for the promotion of the good order and prosperity of said schools.

(14) To allow the children of persons non-resident within the city to attend any of the schools therein under its control, upon such terms as its may prescribe.

(15) To establish and maintain a free public library, and to provide suitable rooms therefor; to employ and pay a librarian and assistants to have the care and supervision of the books and other publications belonging thereto and supervise the letting out and return thereof. To exercise the same discretion as to the disposition of the moneys provided by law for the purpose of libraries as is conferred upon the inhabitants of school districts.

(16) Except as otherwise provided by this act, to exercise all powers conferred upon the inhabitants of school districts at school district meetings.

(17) Except as otherwise provided by this act, to exercise all the powers conferred and all the duties imposed by the general laws of this state applicable to boards of education in cities.

SECTION 102. On or before the first day of May in each year the board of education shall present to the board of commissioners a detailed estimate of such moneys as it may deem necessary to be raised by taxation for each of the following purposes, for the ensuing school year, namely:

(1) The wages of superintendent and teachers, after applying such of the public school and other moneys as may be applicable thereto.

(2) For the maintenance of high schools and the payment of teachers thereof, after applying such of the public school and other moneys as may be applicable therto.

(3) For the maintenance and repair of school-houses, out-houses and grounds with their appendages and appurtenances.

(4) For the purchase, repair or improvement of school apparatus, books, furniture and fixtures.

(5) For the purchase, maintenance and repair of the free public library and of the school and academic libraries.

(6) For the rent of school-houses and rooms for school purposes, the purchase of fuel and lights, and to pay the contingent expenses of the district, including the wages of clerk, janitress, and other assistants and employees and incidental expenses.

(7) For such other purposes as required by the provisions of this act.

The board of commissioners may amend said estimate, and after having adopted the same, shall include the amount therein called for in the annual tax and assessment roll for that year, and the amount so included shall be collected and paid to the commissioner of finance, who shall place the sum as well as all other public moneys or public funds received for, and belonging or appropriated to, the use of said school district, to the credit of the school fund of the board of education, and shall keep the same separate from the other funds of the city. The board of education shall disburse all the funds of said district by orders upon the commissioner of finance, signed by its clerk and countersigned by the mayor. Said orders shall be numbered consecutively and shall specify the purpose for which they are drawn and the person to whom payable. Upon the request from the board of education, the commissioner of finance shall certify from time to time the balance remaining to the credit of the school fund. Whenever any moneys are collected by, or paid to, the commissioner of finance for school purposes, it shall not be lawful for said commissioner to apply such money or any part thereof to any other purpose or object.

SECTION 103. The board of education shall, whenever it deems a new school building, or the enlargement of an existing building or additional lands in connection therewith, to be necessary, report that fact, together with plans therefor, the proposed site and the estimated expense thereof, to the board of commissioners, who shall, if they approve, authorize the board of education to purchase such lands, erect or enlarge such buildings; and shall provide the funds therefor by the sale of bonds or by including the sum required in the next annual budget as may be deemed proper by the commissioners. If the commissioners shall disapprove, then upon demand of the board of education, its recommendation and the objections of the commissioners shall be referred to the people at a special election to be held on the first Tuesday after the first Monday in the month occurring not less

than fifteen days after the action of the commissioners. At such election, all persons entitled to vote for school officers under the laws of the state of New York shall be entitled to vote and the election shall be held in the manner provided for school elections.

SECTION 104. It shall be the duty of the board of education, on or before October 1st, in each year, to make to the board of commissioners a detailed report of the manner in which it shall have expended the money provided for and appropriated to school purposes from any sources, during the last fiscal year; also a full statement of the bonded or other indebtedness of the district; and such report shall be published by the commissioners in connection with and as a part of the annual report of financial transactions of the city which it is required by this act to publish. The board of education shall also make report to the superintendent of public instruction of the state in the manner and at such times as he may direct.

SECTION 105. It shall be the duty of the superintendent of public instruction of the state to apportion for the use of the board of education of the city of Mount Vernon such portion of the school, library, and other public money as it shall be entitled to by its annual report, in the manner in which such moneys are apportioned to cities; and the amounts to which it shall be so entitled, shall be certified to the county treasurer of Westchester county, and said county treasurer shall pay over to the commissioner of finance of the city, for the use of the board of education such proportion of the school, library and other public money as may be apportioned by law or by the superintendent of public instruction of the state to the board of education of the city, for teachers' wages, library and other school purposes.

SECTION 106. The board of commissioners of the city shall have the power to pass such ordinances as the board of education shall report necessary for the protection, safe keeping, care and preservation of the school buildings and other school property, and to impose penalties for the violation of the same.

SECTION 107. Charges of misconduct or violation or neglect of duty on the part of any member of the board of education may be presented to said board by any member thereof or by any elector of the city, and such charges shall be duly examined by the board at a regular or special meeting of which the

accused member shall have at least five days notice, but at which meeting said accused member shall not be entitled to vote. If at such meeting, after hearing the evidence on both sides, the board shall deem the charges against the member sustained, then all the papers and documents in the case, with a transcript of the proceedings of the meeting shall be transmitted by the clerk of the board to the superintendent of public instruction of the state, and upon his approval of the findings of the board, the accused member shall be removed and his place declared vacant.

SECTION 108. The superintendent of instruction of the city shall confer with and act under the direction of the board of education in performing the duties of his office. He shall, subject to the direction of the board, have general control and supervision of the public schools and the teachers thereof, and shall, on or before the fifteenth day of April in each year, report in writing to the board as follows:

(1) The whole number of schools within the jurisdiction of the board and their sanitary and general condition and management.

(2) The repairs or alterations, if any, that are necessary for such schools.

(3) The condition of the school furniture, apparatus and books in the several schools, and the repairs or additions thereto that may be necessary.

(4) The number of teachers employed in the several schools, and their efficiency; with suggestions as to the increase or decrease in the number thereof.

(5) The number of pupils registered at each school and the average daily attendance.

(6) Such changes in the curriculum of any or all of the schools as he may deem advisable.

(7) Such other information in relation to the schools as may be of interest to the people of the city.

TITLE XI.

OF THE CORPORATION COUNSEL.

SECTION 109. The corporation counsel shall be the attorney of, and counsel to, the city. He shall have charge of all actions and special proceedings brought by or against the city, and of all disputed claims in favor of or against the city, and shall be authorized to compromise and settle the same and bind the city to such compromise and settlement, provided it be in writing, signed by not less than three commissioners.

SECTION 110. He shall be the legal adviser of the board of commissioners, of each of the commissioners, of their subordinates and of the board of education.

SECTION 111. He may designate any subordinate in his office, who shall be a counsellor at law, to act as his deputy, and such deputy shall exercise his authority in his absence or disability.

TITLE XII.

OF THE CITY COURT.

SECTION 112. The city court of Mount Vernon, as constituted by chapter 182 of the laws of 1892, is continued.

SECTION 113. The city judge shall be the judge of said court. In his absence or disability the acting city judge shall be the judge of said court. The clerk and marshal shall within the city perform the same duties and have the same powers as to matters pending in said court as the county clerk and sheriff, respectively, have as officers of the county court of Westchester county. The city judge may appoint and at pleasure remove such other officers and employees as the board of commissioners may authorize.

SECTION 114. The court shall have the following jurisdiction:

(a) That of a court of special sessions of the peace, where a crime is committed within its jurisdiction.

(b) Jurisdiction equal to that of the county court of Westchester county, in all cases of misdemeanor committed within the city, which is not expressly stated to be triable only after indictment, subject to removal as provided in section 57 of the code of criminal procedure.

(c) Jurisdiction equal to that of a justices' court in civil actions where the defendant is served within the city.

(d) In civil actions and special proceedings, jurisdiction equal to that of the county court of Westchester county, where the defendant is served with process in the city.

(e) Of all actions and proceedings to enforce ordinances and regulations of the city.

SECTION 115. The city judge and the acting city judge shall have all the authority of a magistrate within the city.

SECTION 116. The city judge and the acting city judge shall, as to all actions or proceedings pending in the city court, have the same authority as a justice of the supreme court sitting in chambers in actions or proceedings pending in the supreme court.

SECTION 117. In all civil actions, the process, procedure, trial, judgment, costs and disbursements shall be regulated by the laws applicable to county courts, except that summons shall be returnable after six days, exclusive of the date of service, and the time to appear and plead shall be six days; and except that in actions where the amount involved does not exceed one hundred dollars, the costs and disbursements shall not exceed ten dollars.

SECTION 118. In all criminal actions or proceedings, the process, procedure, trial, judgment, costs and disbursements shall be regulated by the laws applicable to county courts.

SECTION 119. In any case where an appeal would lie from the decision of a county judge, a county court, or a justices' court, an appeal shall lie from the decision of the city judge or the city court to the appellate division of the supreme court in the judicial department in which the city is situated.

SECTION 120. In civil actions jury trials shall not be had unless demanded in the notice of trial. The city judge shall certify to the commissioner of jurors of the county of Westchester

the terms when a jury will be required to attend. A panel of jurors shall be drawn from those liable to serve and who reside in the city by the same officers by whom, and in the same manner that, jurors are drawn to serve in the county court.

SECTION 121. A transcript of the docket of any judgment of the city court, when issued by the clerk of said court, under the seal of said court, may be filed in the office of the clerk of any county in the state, and such judgment shall thereupon be docketed in such county, and the same shall thereupon have the same effect, and may be enforced in the same manner, and the same proceedings may be taken thereon, with like effect in all respects, as if such judgment had been rendered in the supreme court and first docketed in the office of the clerk of such county.

When a transcript of the docket of any such judgment shall be filed in the office of the clerk of Westchester county and there docketed, the same may be enforced, at the election of the judgment creditor, either by proceedings in the city court or before the city judge, or by proceedings before the county judge of Westchester county, or in the county court of Westchester county.

SECTION 122. The clerk of the city court shall charge for his services the fees which a county clerk would be entitled to charge for like services. The marshal of the city court shall charge for his services the fees for which a constable or a sheriff of the county of Westchester would be entitled to charge for his services. All such fees shall be paid into the city treasury daily and accounted for under the regulations prescribed by the mayor.

TITLE XIII.

OF THE REFERENDUM, RECALL, INITIATIVE, NOMINATIONS AND SPECIAL ELECTIONS.

SECTION 123. Whenever a proposed ordinance requiring the signatures of four commissioners shall have received the signatures of three commissioners, it shall be unlawful for either of the other commissioners to sign the same, until said ordinance shall have been first published for ten days in the manner provided by this act for the publication of ordinances. If within said ten days a petition signed and acknowledged or proved, as deeds

are required by law to be acknowledged or proved in order to be recorded, by twenty-five or more electors of the city, registered at the election held in the preceding November, shall be filed with the mayor praying for a hearing upon said proposed ordinance, then it shall not be lawful for either of said other commissioners to sign said proposed ordinance until the expiration of forty-eight hours after the close of the hearing, or any adjournment thereof, hereinafter provided for. If such petition is so filed with the mayor he shall immediately fix and advertise a place and day for a hearing on said proposed ordinance before the commissioners; which hearing may be adjourned from time to time by a majority of the commissioners.

SECTION 124. No ordinance granting a franchise, or appropriating more than \$25,000 for any single purpose other than the current expenses of the city, or ordering a bond issue, except bonds issued in lieu of unpaid taxes and assessments, shall go into effect until thirty days after the time of the publication of the said ordinance, as required by this act; and if, during said thirty days, a petition signed and acknowledged or proved as deeds are required by law to be acknowledged or proved by electors of the city, registered at the election held in the preceding November, equal in number to five per cent. of the electors so registered, protesting against the passage of such ordinance, and stating briefly the ground for such protest, shall be presented to the mayor, such ordinance shall thereupon be suspended and shall not go into operation; and it shall be the duty of the board of commissioners to reconsider such ordinance and to repeal the same, or in default thereof, to submit the same to the people at the next general election or at the option of the board at an election to be called for such purpose in the manner hereinafter provided. At such election the ballots shall contain a copy of the ordinance and of the petition except the signatures, and shall contain the words "For the Ordinance" and "Against the Ordinance;" and shall otherwise comply with the requirements of law for ballots upon constitutional amendments submitted to the people. The ordinance shall take effect only in case a majority of the votes cast at such election shall be in favor thereof.

SECTION 125. The word "franchise" as used in the last preceding section is intended to include, and shall be construed to mean, any and all rights or permission to construct, maintain

or operate within the boundaries of the city, upon, above or under ground, in, under, above on or through the streets, highways, parks, water front, public waters, land under water, public or private lands or places, all wharves, piers and docks; all bridges; all telegraph, telephone or electric light lines, wires, poles and appurtenances; all supports and inclosures for electrical conductors and their appurtenances; all surface, under-ground or elevated railroads; all railroad structures, sub-structures and super-structures, tracks, branches, switches and their appurtenances; all stage or bus lines or routes; all mains, pipes, tanks, conduits or wires, with their appurtenances, for conducting water, steam, heat, light, power, gas, oil, electricity or other property, substance or produce capable of transportation or conveyance therein, or that is protected thereby.

SECTION 126. The mayor, any commissioner or any school trustee may be removed at any time by the qualified voters of the city. Upon receipt by the mayor of a petition signed and acknowledged or proved as deeds are required by law to be acknowledged or proved, by electors of the city registered at the election held in the preceding November equal in number to twenty-five per cent. of the electors so registered, (of whom a number equal to five per cent. of the whole number of electors shall be enrolled republicans and a like number shall be enrolled democrats), asking for the removal of such officer, the board of commissioners shall order a special election to be held for the election of a successor. At such election the ballots shall be the same as those required at a regular annual election, except that the name of the officer mentioned in the petition shall appear first on the list of candidates without requiring that a petition nominating him shall be filed. Upon such election the candidate receiving a majority of the votes cast, shall be deemed to be elected to fill such office for the unexpired term of the officer mentioned in the petition, and upon his qualification the officer mentioned in the petition shall cease to hold such office. Should the successor not qualify within ten days after election day the office shall be deemed to be vacant.

SECTION 127. Any proposed ordinance may be submitted to the board of commissioners by a petition signed and acknowledged or proved as deeds are required by law to be acknowledged or proved, by electors of the city registered at the election held

in the last preceding November, equal in number to five per cent. of such electors; such petition shall set forth the proposed ordinance in exactly the language in which it is intended to be passed, and shall then be presented to the mayor. Within five days after receipt of the mayor's certificate as provided in section 132, the board of commissioners shall either adopt the ordinance, without alteration, or submit the same to the people at the next general election occurring not less than thirty days after the date of the certificate of the mayor. And the official ballot to be used at such election shall contain a printed copy of the ordinance and the words "For the Ordinance" and "Against the Ordinance" in the manner provided by the Election Law for the preparing of ballots for voting upon constitutional amendments. Should a majority of the electors voting thereon at such election vote for the ordinance, it shall be passed and effective as though it had been adopted by the board of commissioners.

SECTION 128. Candidates for elective offices provided for in this act, (except the school trustees, who shall be nominated in the manner now provided by law), shall be nominated only in the following manner, to wit: Petitions nominating a candidate for office, signed and acknowledged or proved in the manner in which deeds are required to be signed and acknowledged or proved, by electors of the city registered at the last preceding annual election, equal in number to five hundred, may be filed in the office of the mayor. Such petitions shall contain a statement that the signers have not signed any other petition nominating a person for that office to be voted upon at that election. Such petitions must be filed in said office at the time and in the manner required by the Election Law for filing petitions naming candidates for city offices and must in all respects conform to the provisions of said law. The mayor, after having verified said petitions, shall certify the same as provided in section 132 and shall cause the name or names of candidates nominated in such petition to be placed upon the official ballot.

SECTION 129. The board of commissioners shall order a special election upon any question required by this act to be submitted to the people at a special election, to be held on the first Tuesday after the first Monday of any month which will occur not less than fifteen days nor more than forty-five days after the receipt of such petition, to pass upon such question.

At such special election no elector shall be allowed to vote who was not a registered voter at the election held in the preceding November. In all other respects the provisions of the Election Law applying to general elections shall apply to such elections, except that no days of registration shall be necessary. Notice of such election shall be published once, in the manner in which ordinances are required to be published, at least ten days preceding such election, and shall set forth the questions to be voted upon at such election. And in case any question be submitted at the general election like notice shall be published at least ten days preceding such general election.

SECTION 130. At all elections for school trustees, or to decide questions submitted pursuant to provisions of section 103 of this act, the board of commissioners shall designate not less than five polling places; each polling place, which may be a school-house, shall be located in one of the election districts whose residents vote thereat; the board shall designate at which one of these polling places the residents of each district may vote; they shall assign two inspectors of election from each of the two principal political parties to preside at each polling place; the attendance of poll clerks and ballot clerks shall not be required. The polls shall be open from three o'clock in the afternoon until nine o'clock in the evening. In all other respects the provisions of law and ordinance applicable to general elections shall apply to such elections, except that previous registration of voters shall not be required.

SECTION 131. Candidates for elective offices mentioned in this act, except the school trustees, shall be voted for upon official ballots, separate from the regular official ballot, which shall be entitled "Official Ballot, City Officers of Mount Vernon." Upon such ballot the names of all candidates to be voted for shall be arranged alphabetically according to their sur-names, followed by a blank space in which the voter may write any name not printed under such title; and no sign, symbol or other description whatever shall be placed upon the ballot; and the circle ordinarily placed under such sign or symbol shall be omitted therefrom. Electors shall be required to indicate their choice by making a cross in the square opposite the name of the candidate for whom it is intended to vote; in all other respects the ballot shall comply with the provisions of the Election Law relating to ballots.

SECTION 132. Upon receipt by the mayor of any petition in this title provided for, he shall cause the names thereon to be compared with the registry of voters at the last preceding annual election, and verify the same in other respects as to matters prescribed in this title; and shall within ten days after receipt thereof by him certify to the board of commissioners the petitions, particularly as to the required number of signatures. In the case of nominating petitions he shall exclude the names of electors signing a petition, whose names appear upon petitions filed prior thereto.

SECTION 133. The board of commissioners shall by ordinance prescribe proper forms to be used for all purposes referred to in this title, which forms shall be printed under the direction of the mayor, who shall furnish copies thereof to any elector when requested so to do.

TITLE XIV.

OF THE TAKING EFFECT OF, OR AMENDMENT OF THIS ACT OF REPEALS, ETC.

SECTION 134. No general city law of this state relating to cities, either of a particular class or of all classes, inconsistent with this act, shall operate in the city, unless and until the legislature shall so direct by mentioning the city of Mount Vernon, by name therein.

SECTION 135. When this act takes effect as hereinafter provided, the following acts except as herein continued are hereby repealed :

LAWS OF	CHAPTER
1892.....	182
1894.....	10
1894.....	490
1895.....	12
1895.....	180
1895.....	189
1895.....	243
1895.....	710
1896.....	146

LAWS OF	CHAPTER
1896.....	205
1896.....	514
1896.....	692
1896.....	774
1898.....	238
1898.....	247
1900.....	274
1900.....	275
1900.....	361
1900.....	564
1901.....	69
1901.....	285
1901.....	329
1901.....	473
1901.....	474
1901.....	489
1902.....	44
1902.....	610
1903.....	46
1903.....	114
1903.....	165
1903.....	402
1903.....	448
1904.....	128
1904.....	349
1904.....	695
1905.....	85
1905.....	86
1905.....	87
1905.....	114
1905.....	176
1905.....	255
1905.....	374
1905.....	473
1905.....	561

LAWS OF	CHAPTER
1906.....	53
1906.....	71
1906.....	204
1907.....	51
1907.....	165
1907.....	474
1907.....	672
1908.....	41
1908.....	115
1908.....	117
1908.....	226
1908.....	341
1908.....	342
1908.....	384
1909.....	92
1909.....	361
1909.....	476

The following acts are not repealed hereby :

LAWS OF	CHAPTER
.1886.....	608
1887.....	393
1888.....	163
1888.....	310
1889.....	83
1890.....	79
1902.....	375
1903.....	482
1904.....	459
1906.....	70
1907.....	436
1908.....	343
1908.....	425
1909.....	552

SECTION 136. All real estate owned in fee simple title, or held by lease, sufferance, easement or otherwise, all public buildings, market houses, school buildings, school-houses, fire engine houses, public squares, parks, streets, alleys, and all property of whatever kind, character or description, which has been granted, donated or purchased, or otherwise acquired by the city through any means or agency ; and all actions, cases in action, rights or privileges of any kind and character, and all property of whatsoever character or description, which may have been held and is now held, controlled or used by the city, for public uses or in trust for the public, shall vest in, and remain in and inure to, the said corporation, the city of Mount Vernon, under this act : and all suits and pending actions to which the city heretofore was, or now is a party, plaintiff or defendant, shall in no wise be affected or terminated by the provisions of this act, but shall continue unabated.

SECTION 137. The mayor and the commissioners elected at the annual election in November, 1910, are authorized, between the date of their election and January 1st, 1911, to from time to time meet and adopt such ordinances as may, in their opinion, be necessary and proper for carrying out the provisions of this act, and to enable said board and its members to undertake the government of the city, which ordinances shall take effect on the 1st day of January, 1911. For that purpose only, their terms shall be considered to commence as soon as they are elected ; but they shall not be entitled to any compensation for the period prior to January 1st, 1911.

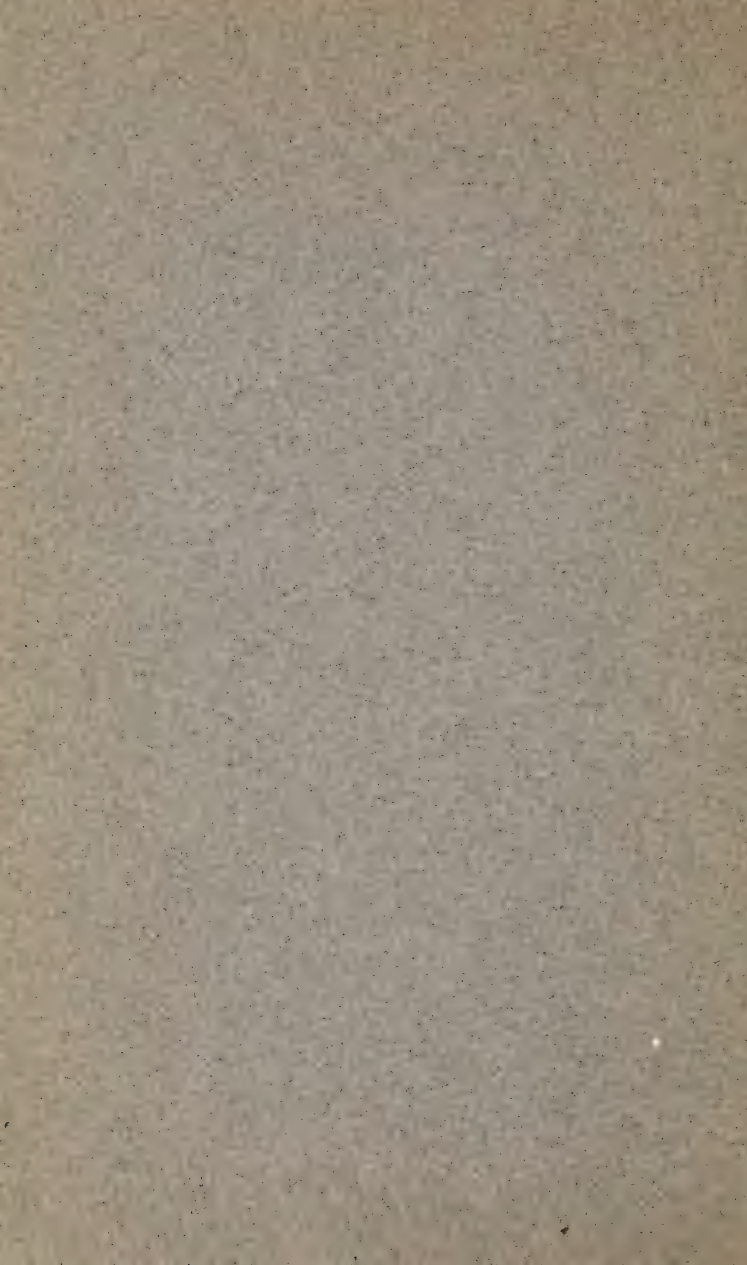
SECTION 138. This act shall not take effect unless it is approved by a majority of the votes cast at a special election to be held within thirty days after the bill has been signed by the Governor, or become effective without his signature, provided that if the thirty days expire between the 15th day of June and the 15th day of September, that period be no part of the thirty days. If thus approved, so far as it may be necessary to elect officers or to do any other act preparatory to the commencement of the operation of the government of the city under the provisions of this act, it shall take effect immediately after the approval by the electors at said special election. In all other respects this act shall take effect January 1st, 1911.

FREEHOLDERS' CHARTER

AND AMENDMENTS THERETO

CITY OF PALO ALTO

1911



FREEHOLDERS' CHARTER

AND AMENDMENTS THERETO

CITY OF PALO ALTO

1911

ORIGINAL INCORPORATION

By unanimous vote of the Board of Supervisors of the County, at a regular meeting held on the 1st day of April, 1894, Palo Alto was duly declared a city of the Sixth Class under the provisions of the General Municipality Act. The boundaries of the Board of Supervisors were the same as the boundaries of the Town of Palo Alto and University Park, upon a map of said County made by Timothy Hopkins in the office of the County of Santa Clara on the 27th day of March, 1880, and recorded in Liber D of Maps at the records of the Board of Supervisors of Santa Clara County.

FEEHOLDERS CHARTER

BY A BOARD OF FIFTEEN FREEHOLDERS

and ratified by the qualified voters of the City of Palo Alto at a special election held on the 21st day of February, 1909, adopted by the legislature February 19, 1909.

In force and effect July 1st, 1909.

The voters of the City of Palo Alto have by their vote thereto voted for and ratified at a special election held in the City of Palo Alto on the 1st day of February, 1911. Adopted by the legislature March 24th, 1911.

CITY OF PALO ALTO

FRANK KASSON, Clerk

PALO ALTO, - CALIFORNIA



ORIGINAL INCORPORATION

By unanimous vote of the Board of Supervisors of Santa Clara County, at a regular meeting held on the 16th day of April, 1894, Palo Alto was duly declared to be a Municipality of the Sixth Class under the provisions of the General Municipality Act. The boundaries fixed by the Board of Supervisors were the same as those designated as the boundaries of the Town of Palo Alto, formerly University Park, upon a map of said Town filed by Timothy Hopkins in the office of the Recorder of the County of Santa Clara on the 27th day of February, 1889, and recorded in Liber D of Maps at page 69.—(Records of the Board of Supervisors of Santa Clara County).

FREEHOLDERS CHARTER

PREPARED BY A BOARD OF FIFTEEN FREEHOLDERS

Voted for and ratified by the qualified voters of the Town of Palo Alto at a special election held on the 21st day of January, 1909, adopted by the legislature February 20th, 1909. In force and effect July 1st, 1909.

Amendments thereto voted for and ratified at a special election held in the City of Palo Alto on the 1st day of February, 1911. Adopted by the legislature March 24th, 1911.

CHARTER OF THE CITY OF PALO ALTO

1909

Senate concurrent resolution No. 6, approving the charter of the City of Palo Alto, State of California, and the additional proposition submitted therewith, voted for and ratified by the qualified voters of said town of Palo Alto at a special municipal election held therein for that purpose on the 21st day of January, 1909.

[Adopted February 20, 1909.]

Whereas, The town of Palo Alto, a municipal corporation of the county of Santa Clara, State of California, now is and was at all the times herein referred to a city containing a population of more than three thousand five hundred inhabitants; and

Whereas, At a special municipal election duly held in said town on the 24th day of August, A. D. 1908, under and in accordance with the laws and with the provisions of section eight of article eleven of the Constitution of the said State of California, a board of fifteen freeholders, duly qualified, was elected in and by said town, by the qualified electors thereof, to prepare and propose a charter for the government of said city; and

Whereas, Said board of freeholders did, in accordance with law, and within ninety days after said election, prepare and propose a charter for the government of the said City of Palo Alto, and

Whereas, Said board of freeholders did, at the same time and place prepare and propose with said proposed charter the following additional proposition I, article X, alcoholic liquors; and

Whereas, The said proposed charter and the said additional proposition were, on the 20th day of November, A. D. 1908, signed in duplicate by the members of

said board of freeholders, and one copy thereof was, on the 21st day of November, A. D. 1908, duly returned and filed with the president of the board of town trustees of the town of Palo Alto, and the other copy thereof was duly returned and filed with and in the office of the county recorder of said county of Santa Clara; and *

Whereas, Such proposed charter and said additional proposition were thereafter published in the Palo Alto Daily Times, a daily newspaper of general circulation in said town of Palo Alto, for a period of twenty days and more, the first publication thereof having been made within twenty days after the completion of said proposed charter and said additional proposition; and

Whereas, Said proposed charter and said additional proposition were within thirty days after the completion of said publication, submitted by the board of town trustees of the town of Palo Alto, to the qualified voters of said town at a special municipal election previously duly called and therein held on the 21st day of January, 1909; and

Whereas, At said last mentioned special municipal election a majority of said qualified electors of said town voting at such special municipal election, voted for and in favor of the ratification of such proposed charter as proposed as a whole, and also voted in favor of the ratification of the said additional proposition; and

Whereas, Said board of town trustees of the town of Palo Alto, after canvassing said returns, duly found and declared that the majority of said qualified electors voting at such special municipal election had voted for ratifying said proposed charter and had voted in favor of and for ratifying said additional proposition; and

Whereas, The same is now submitted to the legislature of the State of California for its approval and ratification as a whole without power of alteration or amendment, in accordance with section eight of article eleven of the constitution of the State of California; and

Whereas, Said proposed charter and said additional proposition are in the words and figures following, to wit:

CHARTER PREPARED AND PROPOSED FOR
THE CITY OF PALO ALTO BY THE BOARD
OF FREEHOLDERS, ELECTED ON THE
TWENTY-FOURTH DAY OF AUGUST, A. D.
1908.

CHARTER OF THE CITY OF PALO ALTO

ARTICLE I

BOUNDARIES OF THE CITY

The boundaries of the City of Palo Alto shall be as follows:

All that certain land situated in the county of Santa Clara, State of California, included in the townsite map of the town of Palo Alto (formerly University Park) as laid down and designated upon a map of said town filed by Timothy Hopkins on the 27th day of February, A. D. 1889, in the office of the county recorder of said Santa Clara county, in book "D" of maps, page 69, and the proposed boundaries of the said municipal corporation are the boundaries of the said University Park (now Palo Alto) as set forth and particularly described upon said map, to wit:

Commencing at the point of intersection of the center line of the San Francisquito creek with the northeasterly line of the right of way of the Southern Pacific Railroad; thence southeasterly along said northeasterly line of said right of way of the Southern Pacific Railroad to the northwesterly line of the Embarcadero road; thence northeasterly along said line of the Embarcadero road to the easterly line of block number one hundred eight (108) as designated upon said map; thence northerly along said easterly line of said block number 108 and the easterly line of block number 109 as laid down upon said map to the northerly line of block number 109; thence westerly along the northerly line of blocks numbers 109, 106, 105, 102 and 101 as laid down on said map to a point on the said northerly boundary line of block 101, being upon an extension southerly of the easterly lines of blocks numbers 96 and 97 as laid down upon said map; thence northerly along the easterly lines of blocks numbers 97

and 96 aforesaid to the northerly line of a road (now known, as Channing lane); thence westerly along the northerly line of said road as laid down on said map and parallel to the northerly lines of blocks numbers 95 and 87 to the northeasterly line of Guinda street as laid down on said map; thence along said line of Guinda street northwesterly to the easterly line of block number 83 as laid down on said map; thence northerly along the easterly lines of blocks numbers 83, 84, 85 and letters "H" and "G" as laid down on said map to the center line of the San Francisquito creek; thence southwesterly meandering the center line of said creek to the point of commencement.

SEC. 2. The boundaries above described may be altered, and the territory embraced therein may be added to or diminished in accordance with the laws of the State of California governing the annexation and exclusion of territory by municipalities.

ARTICLE II

POWERS

The City of Palo Alto shall have and exercise the following powers:

1. To have perpetual succession.
2. To have and use a corporate seal and alter it at pleasure.
3. To sue and to be sued in all courts and places, and in all actions and proceedings whatsoever.
4. To purchase, receive, have, take, hold, lease, use and enjoy property of every kind and description, both within and without the limits of said City, and to control and dispose of the same for the public benefit.
5. To receive bequests, devises, and donations of property of every kind, either absolutely or in trust for any purpose, and to do all acts necessary to carry out the purposes of such bequests, devises and donations, and to manage, control, sell or otherwise dispose of such property in accordance with the terms of such bequests, devises or donations.
6. To exercise police powers and make all necessary police and sanitary regulations, and to adopt ordinances and prescribe penalties for the violation thereof.
7. To levy and collect taxes and assessments, impose license fees for revenue or regulation, and provide all means for raising the revenue necessary for the City.

8. To borrow money, incur municipal indebtedness and provide for the issuance of bonds or other evidences of such indebtedness.

9. To acquire, construct, maintain and operate all necessary works for the supplying of the City and its inhabitants with water, light, heat, power, telegraphic and telephonic communication, and for the conveyance of passengers and freight over, under and upon public streets and rights of way secured therefor; to fix rates for all commodities furnished or services rendered, and to dispose of commodities produced or render service in connection with such works outside of the boundaries of said City.

10. To improve the rivers, streams, bays, inlets and channels flowing through the City or adjoining the same; to widen, straighten and deepen the channels thereof, and remove obstructions therefrom; to control and improve the water front of the city; to construct and maintain embankments and other works to protect the City from overflow; and to acquire, own, construct, maintain, and operate on any lands bordering on any navigable bay, inlet, river, creek, slough or arm of the sea, within the limits of the City or contiguous thereto, wharves, chutes, piers, breakwaters, bath houses and life saving stations.

11. To establish and change the grade and lay out, open, extend, widen, change, vacate, pave, re-pave, or otherwise improve all public streets and highways and public places, construct sewers, drains and culverts, to plant trees, construct parking, and to remove shrubs and weeds; to levy special assessments to defray the whole or any part of the cost of such works or improvements. Also to provide for the repair, cleaning and sprinkling of such streets and public places.

12. To acquire, construct and maintain all works necessary for the disposition of sewage, garbage and waste; and to define and abate nuisances.

13. To establish and maintain hospitals, indigent homes, and all other charitable institutions.

14. To acquire and maintain parks, play-grounds, theaters, and places for recreation, and to establish boulevards and regulate traffic thereon.

15. To acquire and maintain markets, baths, and public halls.

16. To establish and maintain schools, libraries, museums, gymnasiums, and to do all things to promote the education of the people.

17. To equip and maintain a fire department and to make all necessary regulations for the prevention of fires.

18. To acquire, construct and maintain all buildings necessary for the transaction of public business.

19. To exercise the right of eminent domain for the purpose of acquiring real and personal property of every kind for any public use.

20. To grant permits to use the streets or public property, revokable at any time without notice.

21. To regulate and establish rates and charges to be imposed and collected by any person or corporation for commodities or services rendered under or in connection with any franchise, permit or license heretofore or hereafter granted by the town or city or other authority.

22. To exercise such other powers as are now or may be hereafter granted by the legislature to the municipalities within the state unless the exercise of such powers is contrary to the provisions of this charter.

23. To exercise all other needful powers for the efficient administration of the municipal government, whether such powers are herein expressly enumerated or not.

24. Lastly, this grant of power is to be liberally construed for the purpose of securing the well being of the municipality and its inhabitants.

ARTICLE III

COUNCIL

SEC. 1. All powers herein granted to and vested in the City of Palo Alto shall, except as herein otherwise provided, be exercised by a council to be designated the Council of the City of Palo Alto; and said council shall, except as herein otherwise provided, have the power to fix and establish the method and manner in which such powers shall be exercised.

SEC. 2. Said council shall be composed of 15 members, each of whom shall have been an elector of the City of Palo Alto for at least three years next preceding his election.

The members of said council shall be known as councilmen, and their terms of office shall be six years, commencing on the first day of July next succeeding their election, except that the terms of those first elected and designated to serve as councilmen shall be as herein provided.

SEC. 3. On the second Monday of May, 1909, an election shall be held within said City for the purpose of electing 15 members of said council.

The 15 members elected at such election shall, at the first regular meeting in July, 1909, so classify themselves by lot that five of said members shall hold office for the term of two years; five for the term of four years, and five for the term of six years.

Thereafter on the second Monday in May of each odd numbered year, an election shall be held at which councilmen shall be elected to succeed the members whose terms expire on the first day of July next following.

SEC. 4. All elections called and held in said City, shall be held and conducted in manner and form as required by the general laws of the state governing elections within municipalities, *provided*, that after the first election the council may provide that said elections may be held in such manner as said council may by ordinance determine, or as may be provided by an ordinance adopted by the electors of said City as hereinafter provided.

SEC. 5. Said council shall fix a time and place for its regular meetings and adopt rules to govern its proceedings.

SEC. 6. Eight members of the council shall be necessary to constitute a quorum for the transaction of business; but a less number may adjourn from time to time and compel the attendance of absent members, and impose such fines as it may deem proper upon members refusing or neglecting to attend such meetings.

SEC. 7. No ordinance shall be passed, no appointment made, nor officer removed, no contract shall be awarded and no obligation incurred in excess of three hundred dollars (\$300.00) without the affirmative vote of at least eight members of the council.

SEC. 8. Said council shall elect one of its number as its presiding officer, who shall be known as mayor, and who shall serve for one year after his election.

The said mayor shall preside at all meetings of the council, shall be the chief executive of the said City, and perform such other duties as may from time to time be assigned to him by the council. In all other respects he shall exercise the same duties as any other member of the council.

SEC. 9. The council shall appoint or provide for the appointment of a clerk, treasurer, auditor, tax collector, assessor, attorney, and except as otherwise provided, such other officers as may be necessary for the transaction of the affairs of the municipality.

SEC. 10. A vacancy in the council shall be filled by the remaining members of the council, and the appointee shall hold office until the first day of July succeeding the next election at which councilmen are to be elected. At the next election succeeding any vacancy a councilman shall be elected to serve for the unexpired term.

SEC. 11. The council shall by ordinance provide for the assessment, levy and collection of taxes, and shall act as a board of equalization in equalizing the value of property listed upon the assessment roll. During the month of September in each year, it shall levy such tax as may be necessary to raise revenue for the maintenance of the City and the several departments during the fiscal year, but such tax levy, for all municipal purposes, except the payment of interest and principal on the bonded debt, shall not exceed the sum of 85 cents upon each \$100.00 of assessed valuation as the same appears upon the assessment roll. If in the judgment of the council it should be necessary to provide a revenue in excess of the sum realized from the levy herein provided, the question of the levy of an additional tax shall be submitted to the electors, and a special election may be held for that purpose. The additional sum or rate required to be raised by such additional tax levy shall be expressed upon the ballot. If a majority of the votes cast upon such proposition shall be in favor of authorizing the council to levy such additional rate, then the council may levy the additional tax so authorized.

SEC. 12. The council shall annually appropriate for the use of the several offices and departments, such sums as may be necessary to support the same during each year. Additional appropriations may be made from time to time in case of urgent necessity, by a vote of two-thirds of the members of the council.

ARTICLE IV

DUTIES OF OFFICERS

SEC. 1. *Clerk.*—It shall be the duty of the clerk to keep a true record of the proceedings of the council and of the several boards established by this charter and record the same in proper books kept for that purpose. He shall have power to administer oaths in connection with all matters relating to the municipality.

SEC. 2. *Auditor*.—It shall be the duty of the auditor to act as bookkeeper and accountant of the municipality and to record all financial transactions in books kept for that purpose. He shall draw warrants upon the treasurer for all claims against the City which have been allowed by the council and the several department boards. He shall render each month a statement to the council showing the financial condition of the City, and annually a like statement covering all of the financial transactions of the City during the year previous.

SEC. 3. *Tax Collector*.—It shall be the duty of the tax collector to receive and collect all sums due the City for taxes and licenses and from other sources, and he shall pay all moneys received into the treasury of the City, within three days after the receipt thereof.

SEC. 4. *Treasurer*.—The treasurer shall receive and safely keep all moneys belonging to the City and shall pay the same only upon warrants drawn by the auditor for claims which have been previously allowed either by the council or the several department boards, *provided* that the approval of the council or department boards shall not be necessary to pay the monthly salaries of officers and employees. The treasurer may deposit all or such portion of the public moneys as may be determined by the council in any bank within the City authorized by law to receive deposits of public money, in accordance with the provisions of the constitution and act of the legislature entitled: "An act to provide for and regulate the deposit of county and municipal moneys in banks and banking corporations, limiting the amount of public moneys that may be deposited therein and providing a penalty for the illegal deposit and use thereof." (Approved March 23, 1907). And the provisions of such act, except as herein otherwise provided, are hereby made applicable to the government of the City of Palo Alto.

SEC. 5. *Assessor*.—It shall be the duty of the assessor to make annually, between the first Monday of March and the first day of July next succeeding, a complete assessment of all property within the City, and shall upon said last named date turn over to the City council the assessment roll so prepared by him. He shall act as tax collector for the purpose of collecting taxes upon personal property when the same are unsecured by a lien upon real estate.

SEC. 6. *Attorney*.—The attorney shall act as the legal advisor of the council, the several boards, and any officer of the City who requests his advice. He shall prepare all ordinances and contracts whenever required so to do by

the council or the several department boards. He shall prosecute all violators of the City ordinances and shall represent the City in all actions at law.

SEC. 7. The council may require any of the above officers to give official bonds in such sums as it may deem proper, and the council shall pay all premiums upon surety bonds when such bonds are given. It may provide for the appointment of such deputies and assistants as may be required, and shall fix the compensation of such officers and such deputies and assistants. All of the above officers shall perform such other services as the council may require, and shall serve during its pleasure.

SEC. 8. Whenever the public interest may require, the council may consolidate the following offices:

- (a) Clerk and auditor;
- (b) Clerk and tax collector;
- (c) Clerk and assessor;
- (d) Clerk, auditor and assessor;
- (e) Auditor and assessor;
- (f) Auditor and tax collector;
- (g) Assessor and tax collector;
- (h) Treasurer and tax collector.

Until the council shall by ordinance otherwise provide, the following offices are hereby consolidated:

- (a) Clerk, auditor and assessor;
- (b) Tax collector and treasurer.

ARTICLE V

THE SEVERAL DEPARTMENTS

SEC. 1. The administration of the affairs of the City shall be divided among three departments, viz:

- (1) The department of public works;
- (2) The department of public safety;
- (3) The department of public library.

BOARD OF PUBLIC WORKS

SEC. 2. The department of public works shall be under the management and control of a board of public works, which shall consist of three members, to be appointed by the council. They shall serve for the term of six years from and after their appointment unless sooner removed by a majority of said council; *provided*,

that the members first appointed shall classify themselves by lot so that the terms of the members shall expire, respectively, two, four and six years after their appointment. Vacancies are to be filled by the council for the unexpired terms. The members of the board of public works shall receive no compensation. The board of public works shall have and exercise the powers and perform the duties herein enumerated, to wit:

1. To construct, maintain and operate all necessary works for the supplying of the City and its inhabitants with water, light, heat, power, telegraphic and telephonic communication, and for the conveyance of passengers and freight over, under and upon the public streets and rights of way secured therefor; to fix rates for all commodities furnished or services rendered, and to dispose of commodities produced or render service in connection with such works outside of the boundaries of said City.

2. To improve the rivers, streams, bays, inlets and channels flowing through the city or adjoining the same; to widen, straighten and deepen the channels thereof, and remove obstructions therefrom; to control and improve the water front of the City; to construct and maintain embankments and other works to protect the City from overflow; to construct, maintain and operate on any lands bordering on any navigable bay, inlet, river, creek, slough or arm of the sea, within the limits of the City or contiguous thereto, wharves, chutes, piers, breakwaters, bath houses and life saving stations.

3. To establish and change the grade and to lay out, open, extend, widen, change, vacate, pave, re-pave, or otherwise improve all public streets and highways and public places, to construct sewers, drains, culverts thereon, to plant trees, construct parking and remove shrubs and weeds. Also to provide for the repair, cleaning and sprinkling of such streets and public places.

4. To construct and maintain all works necessary for the disposition of sewage, garbage and waste.

5. To establish and maintain hospitals, indigent homes and all other charitable institutions.

6. To maintain parks, playgrounds, theaters and places for recreation, and to establish boulevards and regulate traffic thereon.

7. To construct and maintain markets, baths and public buildings other than school and library buildings.

SEC. 3. Whenever any street work or other improvement is to be done or performed and the cost of the whole or any portion thereof is to be paid by any special

assessment levied upon property, all such proceedings shall be had and carried on by the council upon the recommendation of the board of public works.

SEC. 4. The board of public works shall appoint as its executive officer a competent engineer, and upon the latter's recommendations such other employees as are necessary to supervise, manage and construct, operate and maintain the properties and things under the control of said board, and shall fix the compensation for all employees.

The engineer so appointed shall be the City engineer and street superintendent, and shall, in addition to his other duties,—

1. Advise the council and the several department boards upon all matters of an engineering nature.

2. Supervise the construction and have charge of additions and repairs of all public buildings irrespective of departments.

SEC. 5. *Board of public safety.*—The department of public safety shall be under the management and control of a board of public safety, which shall consist of three members, to be appointed by the council. They shall serve for the term of six years from and after their appointment unless sooner removed by a majority of said council; *provided*, that the members first appointed shall classify themselves by lot so that the terms of the members shall expire respectively two, four and six years after their appointment. Vacancies are to be filled by the council for unexpired terms. Members of the board of public safety shall receive no compensation.

SEC. 6. The board of public safety shall have and exercise the powers and perform the duties herein enumerated, to wit:

1. To enforce all police and sanitary ordinances and regulations adopted by the council.

2. To have charge of the police department.

3. To maintain and have charge of the fire department and provide rules for its government; to establish all needful regulations necessary to preserve the health of the City, and to exercise the powers and perform the duties of boards of health as prescribed by the laws of the State of California.

4. To establish and maintain a public pound.

5. It shall appoint such officers and employees as may be necessary, determine their duties and fix their compensation.

SEC. 7. *Library board.*—The department of public

library shall be under the management and control of a library board, which shall consist of three members, to be appointed by the council. They shall serve for the term of six years from and after their appointment, unless sooner removed by a majority of said council; *provided*, that the members first appointed shall classify themselves by lot so that the terms of the members shall expire respectively two, four and six years after their appointment. Vacancies are to be filled by the council for unexpired terms. Members of the library board shall receive no compensation. The library board shall have and exercise the powers and shall perform the duties herein enumerated, to wit:

1. To manage and control public libraries, reading rooms, museums and art galleries that are now or may hereafter be established, to maintain buildings necessary for the purposes above set forth.

2. To employ librarians, assistants, and such other employees as may be deemed necessary.

SEC. 8. All of the above boards shall have authority to make all contracts necessary for the full exercise of the powers respectively conferred, but shall have no authority to incur a debt or obligation in excess of any fund or appropriation made by the council.

SEC. 9. Said boards shall perform all other duties assigned to them by the council, whether such duties are herein expressly enumerated or not.

SEC. 10. In case the council shall for a period of twenty days fail to appoint the boards provided for in this article, or any member thereof, then it shall be the duty of the mayor to make such appointment.

ARTICLE VI

BOARD OF EDUCATION

SEC. 1. The school department of the City of Palo Alto shall comprise all the schools within the town of Palo Alto, the Palo Alto school district, and all the territory that is now or may hereafter be annexed for school purposes; and shall consist of primary, grammar, and high schools as now established and such other schools as may hereafter be established, under the provisions of this charter; and shall be known as "Palo Alto City School District," which shall succeed to all the obligations, property rights, and privileges of the Palo Alto school district.

SEC. 2 All territory included within the limits of the Palo Alto City school district, but not within the City limits, shall be deemed a part of said City for the purpose of holding the general municipal elections and shall constitute one or more separate election precincts, and the qualified electors therein shall vote only for the board of education and on questions submitted to a vote of the people pertaining to school matters; and said outside territory shall be deemed a part of said City for all matters connected with the school department and with the levying and collecting of all taxes for school purposes.

SEC. 3. The board of education shall consist of five members, who shall have been residents of the school district for at least three years immediately preceding their election, and who shall serve without compensation; *provided*, the board of trustees of the Palo Alto school district shall be and constitute the board of education herein provided for and shall exercise the powers hereby conferred thereon until the election of their successors at the election provided for in section 4 of this article.

SEC. 4. The board of trustees of Palo Alto school district shall order and provide for an election to be held in said district on the third Saturday of April in the year 1909, for the election of a board of education. The members so elected shall classify themselves by lot so that the terms of the members shall expire respectively one, two, three, four and five years after the first day of May, 1909.

SEC. 5. The term of office of the members of the board of education, excepting as provided in section 4 of this article, shall be five years from and after the first day of May succeeding their election.

SEC. 6. An election shall be held on the third Saturday of April, 1910, and on the third Saturday of April of each year thereafter for the election of a member of said board for the full term and for any unexpired term that may exist.

SEC. 7. Said board of education shall have and exercise all the powers conferred upon boards of trustees and boards of education by the laws of the State of California, and in addition thereto shall have power:

1. To annually appoint a superintendent of schools, define his duties and fix his compensation.

2. To provide a system of tenure of employment and compensation of teachers, but teachers shall be liable to removal at any time when the welfare of the schools demands such removal.

3. To provide for the establishment of kindergartens, manual training schools, night schools, technical schools, and to prescribe the studies to be taught therein.

4. To construct school buildings when necessary, and no special election need be held to authorize such construction.

5. To provide free text-books when authorized so to do by the electors voting on such proposition.

6. To prescribe the requirements for graduation from the public schools and issue certificates of graduation.

7. To provide the manner in which all elections shall be held and conducted for the election of members of said board and such special elections as may be authorized by law.

8. To receive bequests, devises and donations of property of every kind, either absolutely or in trust for any purpose, and to manage, hold or dispose of such property in accordance with the terms of any bequest, devise or donation.

9. To fill any vacancy in the membership of the board by appointment, the person appointed to hold office until the first day of May following the next election held for the election of members of such board. At the next election succeeding any vacancy a member shall be elected to serve for the unexpired term.

SEC. 8. The board of education shall determine annually the amount of money necessary to be raised by taxation for the maintenance of the public schools, in addition to the amount of money to be received from the state and county; and the board shall, on or before the first day of September of each year, submit in writing to the board of supervisors of Santa Clara County, a careful estimate of all money required to be raised by taxation in addition thereto, and said estimate shall state separately the amount required to be raised by taxation upon property within the school district for the support of high schools, and the amount required to be raised by taxation upon the property of the school district for the support of the schools other than high schools; and the board of supervisors of Santa Clara County shall, and they are hereby authorized and directed, in each year when fixing the annual tax rate to levy and assess as a school tax for the maintenance of high schools, such amount as the board of education shall report necessary for that purpose, and shall levy and assess as a school tax for the support and maintenance of the schools other than high schools, such amount as the board of education shall

report to be necessary for that purpose. In addition to the taxes levied for the support and maintenance of the schools, the board of supervisors shall annually levy a tax sufficient to pay the principal and interest on all outstanding bonds of the Palo Alto school district.

ARTICLE VII

POLICE COURT

SEC. 1. There is hereby created, in and for the City of Palo Alto, a court which shall be known as the police court of the City of Palo Alto. Said court shall consist of one judge, who shall be appointed by the council, and who shall serve during its pleasure and who shall receive such compensation as the council shall determine.

SEC. 2. Said court shall have exclusive jurisdiction:

(1) In all prosecutions for violations of the City ordinances.

(2) In all actions for the recovery of any fine, penalty or forfeiture, and the enforcement of any obligation or liability prescribed or created by the City ordinances and in which the sum sued for does not amount to three hundred dollars.

SEC. 3. Within the City limits said court shall have concurrent and co-ordinate jurisdiction with township justices' courts in all matters and things in which said justices' courts now or may hereafter have jurisdiction; and the judge of said police court shall have as aforesaid like authority, power and jurisdiction as the justices of said justices' courts.

SEC. 4. Appeals may be taken to the superior court of the State of California, in and for the county of Santa Clara, from the judgments and orders of said police court, in all cases in which appeals now are or may hereafter be provided by law to be taken to said superior court from said justices' courts and police courts.

SEC. 5. In all proceedings in and appeals from said police court, the pleadings, practice, procedure and laws, now applicable or that may hereafter be made applicable to said justices' or police courts, are hereby adopted and made applicable to said police court.

SEC. 6. All fines and other moneys received or collected by the judge of said police court, for or on account of the City of Palo Alto, shall be paid into the City treasury on the first Monday in each month.

SEC. 7. All actions and proceedings pending and undetermined in the existing recorder's court of the town of Palo Alto shall be proceeded with, heard, tried, and determined in said police court hereby provided for, before said judge, the same as if said actions or proceedings had been originally commenced in said police court.

ARTICLE VIII

THE RECALL, INITIATIVE AND REFERENDUM

SEC. 1. Any elective officer may be removed by the electors qualified to vote for the successor of the officer sought to be removed. The procedure to effect the removal of an incumbent of an elective office shall be as follows: A petition signed by electors entitled to vote for a successor to the incumbent sought to be removed, equal in number to at least twenty per centum of the entire vote cast at the last preceding general municipal election, demanding an election of a successor of the incumbent sought to be removed, shall be filed with the clerk, and said petition shall contain a general statement of the grounds for which the removal is sought.

The signatures to the petition need not all be appended to one paper, but said petition may be presented in sections. The number of signatures to each section shall be at the pleasure of the person soliciting signatures to the same. Any qualified voter or taxpayer of the municipality shall be competent to solicit said signatures. Each section shall have attached thereto the affidavit of the person soliciting signatures to the same, stating that all the signatures to the attached section were made in his presence, and that to the best of his knowledge and belief each signature to the section is the genuine signature of the person whose name purports to be thereunto subscribed, and no other affidavit thereto shall be required. Each signature, the genuineness of which is not called in question by the sworn affidavit of the alleged owner thereof, shall be presumed to be genuine. Unless and until it be proven otherwise by official investigation, it shall be presumed that the petition presented contains the signatures of the requisite number of qualified voters. Each signer of said petition shall add to his signature his place of residence, giving the street and number.

Within ten days from the date of filing such petition,

the clerk shall examine and ascertain from the records of registration whether or not said petition is signed by the requisite number of electors entitled to vote, and if necessary the council shall allow the clerk extra help for that purpose, and the clerk shall attach to said petition his certificate showing the result of said examination. If, by the said certificate, the petition is shown to be insufficient, it may be amended by additional signatures within ten days from the date of said certificate. The clerk shall, within ten days after such amendment, make like examination of the amended petition, and if his certificate shall show the same to be insufficient, it shall be returned to the person filing the same, without prejudice, however, to the filing of a new petition to the same effect.

If the petition shall be found to be sufficient, the clerk shall submit the same to the council without delay, and the council shall thereupon order and fix a date for holding the said election, not less than thirty days nor more than forty days from the date of the clerk's certificate to the council that a sufficient petition is filed.

All arrangements for said election shall be made and the same shall be conducted, returned, and the results thereof declared, in all respects as are all other municipal elections; *provided*, that if there be any conflict of provisions, this charter shall control.

Any person sought to be removed may be a candidate to succeed himself, and, unless he requests otherwise, in writing, the clerk shall place his name on the official ballot without nomination. In any such removal election, the candidate or candidates receiving the highest number of votes shall be declared elected. At such election, if some person other than the incumbent receives the highest number of votes, the incumbent shall thereupon be deemed removed from his office upon qualification of his successor. The successor of any officer so removed shall hold office during the unexpired term of his predecessor. In case the party who receives the highest number of votes should fail to qualify within ten days after receiving notification of election, the office shall be deemed vacant. If the incumbent receives the highest number of votes he shall continue in office. In case more than one councilman is sought to be removed, whose terms shall not expire at the same time, there shall appear on the ballot the date of the expiration of the respective terms, and the offices to be filled for such different terms shall be deemed separate and distinct offices to be filled at such election.

SEC. 2. Any proposed ordinance may be submitted to the council by a petition signed by qualified and registered electors of the city equal in number to the percentage hereinafter required. The petition shall set forth a copy of the proposed ordinance, and the form of such petition, signatures, verifications, and duties of the clerk in respect thereto, provided in section 1 of this article for petitions for recall shall apply to petitions of initiative.

If the petition accompanying the proposed ordinance be signed by qualified and registered electors equal in number to ten per centum of the entire vote cast at the last preceding general election, the council must either pass such ordinance without alteration or submit the same to the electorate at the next general municipal election that shall occur at any time after thirty days from the date of the clerk's certificate of sufficiency. But if such petition is signed by qualified and registered electors equal in number to twenty per centum of said vote and contains a request that such ordinance be submitted to a vote of the people at a special election, then the council must either pass the ordinance without alteration or submit the same to the electorate at a special election to be called within sixty days from the filing of such petition.

The ballots used when voting upon such proposed ordinance shall contain the words "For the Ordinance," and "Against the Ordinance" (stating the nature of the proposed ordinance). If a majority of the qualified electors voting on said proposed ordinance shall vote in favor thereof, such ordinance shall thereupon become a valid and binding ordinance of the City. The council may at such election submit any amendment thereto that it may deem proper, and the ballots used at such election shall contain the words "For the Amendment," or "Against the Amendment," or ordinance (naming the ordinance), and also stating the nature of the proposed amendment. If a majority of the qualified electors voting on said proposed amendment shall vote in favor thereof, such ordinance shall thereupon be deemed amended in accordance therewith. The council may also propose and submit any ordinance to the electors, and such ordinance, upon receiving a majority of the votes of the electors voting thereon, shall be deemed to have been adopted and shall be the valid and binding ordinance of the City. Any ordinance adopted by the electors under the provisions of this article can not be repealed or amended, except by a vote of the people obtained in the

manner hereinbefore stated, unless such ordinance shall otherwise provide.

Any number of proposed ordinances may be voted upon at the same election in accordance with the provisions of this section; *provided*, that there shall not be held under this section of the charter more than one special election in any period of twelve months.

SEC. 3. Any ordinance or resolution, other than such as may be required to be passed at a particular time or for the purpose of complying with a charter or statutory law, and excepting such ordinances or resolutions as may be declared by the council to be necessary as emergency measures for the immediate preservation of the public peace, health or safety, shall be subject to a referendum as herein provided; *provided further* that the petition for such referendum be filed within sixty (60) days from the final passage of such ordinance or resolution.

Whenever a petition shall be presented to the council, asking that a particular ordinance or resolution named therein be submitted to a vote of the electors, and signed as required for an initiative petition in section 2 of this article, it shall be the duty of the council to submit the question of the approval or rejection of such ordinance or resolution to the electors at a regular or special election; and until such election is held and the ordinance approved by the electors the provisions of such ordinance or resolution shall be suspended and be inoperative.

All the proceedings relative to the submission of ordinances by initiative shall apply to ordinances submitted by a referendum petition, and the vote thereon shall be of the same force and effect as provided in section 2.

ARTICLE IX

MISCELLANEOUS

SEC. 1. The ordaining clause of all ordinances adopted by the council shall be, "The council of the City of Palo Alto do ordain as follows," and the ordaining clause of all ordinances adopted in accordance with the provisions of article VIII shall be, "The people of the City of Palo Alto do ordain as follows."

SEC. 2. No franchise shall be granted by the council, but may be granted by the electors by ordinance proposed

and adopted as provided in section 2 of article VIII of this charter; *provided*, that the petition therefor shall be signed by qualified and registered voters equal in number to at least twenty per centum of the votes cast at the last preceding general municipal election; *and provided further*, that no franchise shall be granted for a longer term than twenty-five years.

SEC. 3. No officer of the City shall be interested in any contract entered into by the City, and the general laws of the state forbidding city officials to be so interested is hereby made a part of this charter.

SEC. 4. The council shall publish annually a financial report of the City and furnish a copy thereof to each taxpayer residing therein.

SEC. 5. The revenue of each public utility shall be kept in a separate fund from all other receipts and shall be used for the purposes and in the order as follows:

1. For the payment of the operating and maintenance expenses of such utility.

2. For the payment of interest on the bonded debt incurred for the construction or acquisition of such utility.

3. For the payment of the principal of said debt, as it may become due.

4. The remainder shall be paid into the general fund.

SEC. 6. No ballot used at any municipal election shall contain any reference to a political party, and no designation or symbol shall be placed in connection with the name of any candidate. Any person otherwise qualified may be a candidate for an elective office at any election, regular or special, by filing with the clerk, not less than ten days prior to the day of election, a petition signed by qualified and registered voters equal in number to three per centum of the votes cast at the last general municipal election.

SEC. 7. No member of the council shall hold any other municipal office, or hold any office or employment the compensation of which is paid out of the municipal moneys; or be elected or appointed to any office created or the compensation of which is increased by the council while he was a member thereof, until one year after the expiration of the term for which he was elected.

SEC. 8. No person, firm or corporation shall ever exercise any franchise, license, permit, easement, privilege or other use, except in so far as he or it may be entitled to do so by direct authority of the constitution of the State of California, or of the constitution or laws of the United States, in, upon, over, under or along any street, highway or other public place in the City unless

he or it shall have first obtained a grant therefor in accordance with the provisions of this charter.

SEC. 9. Liens for taxes levied shall attach to the property charged therewith on the first Monday in March at 12 o'clock M.

ARTICLE XI

AMENDMENTS

SEC. 1. This charter may be amended at intervals of not less than two years by proposals therefor, submitted by the council to the qualified electors of the City at a general or special election, held at least forty days after the publication of such proposals for twenty days in a daily newspaper of general circulation in said City and ratified by a majority of the electors voting thereon, and approved by the legislature as provided in the constitution of the State of California. Whenever fifteen per centum of the qualified voters of the City shall petition the council to submit any proposed amendment or amendments to this charter to the qualified voters thereof for approval the council must submit the same. In submitting any such amendment or amendments to the charter any alternative article or proposition may be presented for the choice of the voters and may be voted on separately without prejudice to the others.

SEC. 2. The petition herein provided for must be made, presented, examined, and certified to in the manner and form required for petitions in section 1 of article VIII of this charter.

SEC. 3. The council must make all necessary provisions for submitting the proposed amendments to the electors, and shall canvass the votes in the same manner as in other elections.

SEC. 4. The ballots used at such elections shall contain the words "For the Amendment" and "Against the Amendment" (stating the nature of the proposed amendment).

ARTICLE XII

This charter shall take effect at noon on July 1, 1909; *provided* that all provisions relative to public schools, to elections, the qualifications of candidates, the nomination

of candidates for public office shall be operative upon the approval of this charter by the legislature, and the board of trustees of the town of Palo Alto are hereby directed to provide for all elections provided herein to be held prior to the first day of July, 1909, and to issue certificates of election to the persons elected to the office of councilmen.

*All the present officials of the town of Palo Alto shall continue to perform the duties now required of them until their successors are appointed and qualified as in this charter provided.

CERTIFICATE

WHEREAS, The town of Palo Alto, a city of more than three thousand five hundred inhabitants, did on the twenty-fourth day of August, A. D. 1908, have a special election, and under and in accordance with the provisions of section 8, article XI of the constitution of the State of California, elect the undersigned, a board of fifteen freeholders, to prepare and propose a charter for said City;

BE IT KNOWN, That in pursuance of said provisions of the constitution of the State of California, and within a period of ninety days after such election, we, the members of the said board of freeholders, have prepared and do hereby propose the foregoing articles signed in duplicate, as and for the charter of the said City of Palo Alto.

IN WITNESS WHEREOF, we have hereunto set our hands, at the town of Palo Alto, county of Santa Clara, in the State of California, this twentieth day of November, A. D. 1908.

MARSHALL BLACK, President
C. E. JORDAN, Secretary
WALTER E. VAIL
E. C. THOITS
S. W. CHARLES
BENJAMIN P. OAKFORD
A. N. UMPHREYS
H. W. SIMKINS
STANLEY FORBES
CHAS. B. WING
JOHN T. COULTHARD
C. S. DOWNING
C. B. STINSON

ADDITIONAL PROPOSITION SUBMITTED TO
A VOTE OF THE PEOPLE AND PROPOSED
TO BE INCORPORATED IN THE CHARTER
FOR THE CITY OF PALO ALTO.

PROPOSITION I

ARTICLE X

ALCOHOLIC LIQUORS

SEC. 1. It shall be unlawful for any person or persons, firm, corporation, club or association or member of such club or association to establish, carry on, keep or maintain a place where spirituous, vinous, malt or intoxicating liquors or any admixture thereof or any alcoholic drinks whatsoever are sold, kept for sale, offered for sale, furnished, distributed, divided, delivered or given away.

SEC. 2. It shall be unlawful for any person, either as owner, employer, agent, servant, clerk or employe, to sell or deliver any of the liquors herein mentioned, or to solicit the sale of or take orders for the same within the limits of the city of Palo Alto.

SEC. 3. It shall be unlawful for any person directly or indirectly, to keep or maintain, by himself or by associating or combining with others, or in any manner to aid, assist or abet in keeping or maintaining any club room or other place within the City of Palo Alto, in which any intoxicating liquors are kept for the purpose of gift, barter or sale, or for distribution among the members of any club or association.

SEC. 4. Any violation of the foregoing provisions in this section shall constitute a misdemeanor, punishable upon conviction by a fine of not more than \$300.00 or by imprisonment in the City jail for a period of not more than three months, or by both such fine and imprisonment.

SEC. 5. The council may by proper ordinance provide additional penalties, not inconsistent with the law, for the violation of the provisions of this section and may adopt such further restrictions as will make the said provisions effective.

SEC. 6. Nothing in this article shall be held or

construed as prohibiting the sale or use of alcoholic liquor for medicinal, industrial, sacramental or scientific purposes, but the council shall impose such regulations governing such sale and use of such liquors as will prevent the violation or evasion of the provisions of this article.

CERTIFICATE

WHEREAS, The town of Palo Alto, a city of more than thirty-five hundred inhabitants, did on the twenty-fourth day of August, A. D. 1908, have a special election, and in accordance with the provisions of section 8, article XI of the constitution of the State of California, elect the undersigned, a board of fifteen freeholders, to prepare a proposed charter for said City;

BE IT KNOWN, That in pursuance of said provisions of the constitution of the State of California and within a period of ninety days after such election, we, the members of said board of freeholders, have prepared and do hereby propose the foregoing additional article signed in duplicate as and for a part of the charter of the said City of Palo Alto, to be presented for the choice of the voters of the City of Palo Alto and to be voted on separately without prejudice to said proposed charter or to any or either of the articles or propositions herewith presented.

IN WITNESS WHEREOF, we have hereunto set our hands, at the town of Palo Alto, county of Santa Clara, in the State of California, this twentieth day of November, A. D. 1908.

MARSHALL BLACK, President
C. E. JORDAN, Secretary
WALTER E. VAIL
E. C. THOITS
S. W. CHARLES
BENJAMIN P. OAKFORD
A. N. UMPHREYS
H. W. SIMKINS
STANLEY FORBES
CHAS. B. WING
JOHN T. COULTHARD
C. S. DOWNING
C. B. STINSON

Filed November 21, 1908, at 8:30 a.m., with Charles D. Marx, president of the board of trustees of the town of Palo Alto.

MEMORANDUM

The first official publication of the foregoing charter was made in the Daily Palo Alto Times, a daily newspaper of general circulation, on Tuesday, December 8, 1908, in accordance with a resolution adopted by the board of trustees of the town of Palo Alto on Tuesday, December 1, 1908, and by direction of the president of said board and the town clerk as provided for in said resolution.

State of California, { ss.
County of Santa Clara }

I, Charles D. Marx, president of the board of town trustees of the town of Palo Alto, California, do hereby certify that I now am and at all of the times herein mentioned was the duly elected, qualified and acting president of said board of town trustees of the town of Palo Alto; that the board of freeholders whose names appear signed to the foregoing proposed charter and the alternative proposition were, and each of them was, on the 24th day of August, A. D. 1908, at a special municipal election held in said town of Palo Alto, on said last named day, duly elected by the qualified voters of said town as such freeholders, to prepare and propose a charter for said town; that each of the persons so elected was a freeholder and was at the time of said election, and had been continuously for more than five years immediately prior thereto a qualified elector of the said town of Palo Alto; that said board of freeholders, in accordance with law, prepared and proposed a charter and prepared and proposed the foregoing alternative proposition for said town, in duplicate; that the foregoing is a full, true and correct copy of said proposed charter of the said town of Palo Alto, including the said alternative proposition I, which were prepared and proposed by said board of freeholders, one copy of which said proposed charter and of said proposed alternative proposition was duly returned to me as president of the said board of town trustees of the town of Palo Alto, and the other copy thereof was duly returned to and filed with the recorder of the county of Santa Clara, all within ninety days after said election, as required by section eight of article eleven of the constitution of this state; that such proposed charter and the

said alternative proposition I, were then published in the Daily Palo Alto Times (the same being a daily newspaper of general circulation in said town) for more than twenty days, and the first publication thereof was made within twenty days after the completion of said proposed charter and said alternative proposition; that within thirty days after the publication of said proposed charter and said alternative proposition I as aforesaid, and as required by said section eight of the constitution, to wit: On the 21st day of January, A. D. 1909, said proposed charter and said alternative proposition I, were submitted to a special municipal election duly held in the said town of Palo Alto, for the purpose of ratifying or rejecting said proposed charter and the said alternative proposition.

That said proposed charter as a whole and the said alternative proposition were duly ratified at said last mentioned election by the majority of the votes of the qualified electors of said town voting thereon, and that the returns of said last mentioned election were duly canvassed by the board of town trustees of said town of Palo Alto on the 2nd day of February, A. D. 1909, and the result thereof declared as above set forth.

And I further certify that all the times herein mentioned said town of Palo Alto contained a population of more than three thousand five hundred, and that in all matters and things pertaining to said proposed charter and the said alternative proposition, the provisions of section eight of article eleven of the constitution and of the laws of the State of California pertaining to the adoption of said proposed charter and the said alternative proposition have, in every particular, been fully complied with.

In witness whereof, I have hereunto set my hand and affixed the corporate seal of said town this 2nd day of February, A. D. 1909.

CHAS. D. MARX,

President of the Board of Town Trustees
of the Town of Palo Alto.

[SEAL]

Attest:

C. H. JORDAN,

Town Clerk and ex-officio Clerk of the Board
of Town Trustees of the Town of Palo Alto.

JOINT RESOLUTION OF THE LEGISLATURE
OF THE STATE OF CALIFORNIA, APPROV-
ING THE FOREGOING CHARTER OF THE
CITY OF PALO ALTO

Now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring (a majority of all the members elected to each house voting for the adoption of this resolution and concurring therein), That said charter of the City of Palo Alto including said additional proposition No. I, as presented to and adopted and ratified by the electors of said town of Palo Alto as herein above set forth, be and the same is hereby approved as a whole, as and for the charter of said City of Palo Alto as aforesaid.

AMENDMENTS TO CHARTER OF THE CITY OF PALO ALTO

APPROVING TEN CERTAIN AMENDMENTS TO THE CHARTER OF THE CITY OF PALO ALTO, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, VOTED FOR AND RATIFIED BY THE QUALIFIED ELECTORS OF THE SAID CITY OF PALO ALTO, AT A SPECIAL MUNICIPAL ELECTION HELD THEREIN FOR THAT PURPOSE ON THE FIRST DAY OF FEBRUARY, 1911. (ADOPTED MARCH 24, 1911)

WHEREAS, The City of Palo Alto, in the County of Santa Clara, State of California, contains a population of more than thirty-five hundred inhabitants, and has been ever since the year 1909, and is now, organized and acting under a freeholders' charter, adopted under and by virtue of section eight of article eleven of the constitution of the State of California, which charter was duly ratified by a majority of the qualified electors of said City, at a special election held for that purpose on the 21st day of January, A. D. 1909, and approved by the legislature of the State of California on the 20th day of February, 1909 (Statutes of 1909, page 1175); and

WHEREAS, The City council of the said City of Palo Alto did by ordinance duly adopted by said City council and approved by the mayor of said City on the 22nd day of November, 1910, and pursuant to section 8 of article 11 of the constitution of the State of California, duly propose to the qualified electors of said City of Palo Alto, certain amendments to the Charter of said City of Palo Alto, to be submitted to the said qualified electors at a special municipal election to be held in said City on the first day of February, 1911; said amendments being sixteen in number; and

WHEREAS, Said proposed amendments were, and each of them was, published for twenty days in a daily newspaper printed and published in said City of Palo Alto, and having a general circulation therein, to wit: The Daily Palo Alto Times; said publication beginning on the 23rd day of November, 1910, and ending the 16th day of December, 1910; and

WHEREAS, The City council of said City did by said ordinance, duly adopted by said City council and approved by the mayor of said City, order the holding of a special municipal election in said City of Palo Alto on the first day of February, 1911, said day being at least forty days after the publication of said proposed amendments for twenty days in said daily newspaper of general circulation in said City of Palo Alto, to wit: The Daily Palo Alto Times; and did provide in said ordinance for the submission of the proposed Charter Amendments numbers 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 and 16, and alternative amendments numbers 3, 4 and 5, to the qualified electors of said City for their ratification at said election; and

WHEREAS, Said election was duly called and held on said 1st day of February, 1911, and at said election a majority of the qualified electors voting thereon voted in favor of the ratification of and did ratify ten of the proposed amendments to said charter; and

WHEREAS, The City council of the said City of Palo Alto in accordance with the law in such cases made and provided, did meet on Wednesday, the 8th day of February, 1911, at their usual time and place of meeting, and duly canvas the returns of said election as certified by the election boards, and duly found, determined and declared that a majority of the qualified electors of said City voting thereon had voted for and ratified ten of said proposed Amendments to the Charter of said City of Palo Alto; and

WHEREAS, The council of the City of Palo Alto are in doubt as to the legality of the ratification and adoption of Amendment number seven, owing to an error in the instructions to voters on said specific Amendment number seven; therefore said Amendment number seven is herein set forth as a distinct and separate amendment for the consideration of the legislature without prejudice to the nine other amendments herein set forth;

That said Amendment number seven is in words and figures as follows, to wit:

CHARTER AMENDMENT NUMBER SEVEN

Section 7 of article 9 of the Charter of the City of Palo Alto shall be amended to read as follows:

No member of the council shall hold any office or employment the compensation for which is paid out of municipal moneys; or be elected or appointed to any

office created, or the compensation of which is increased by the council while he was a member thereof, until one year after the expiration of the term for which he was elected.

WHEREAS, The said nine subsequent amendments to the charter so ratified by a majority of the qualified electors of said City voting at said election are in words and figures as follows, to wit:

CHARTER AMENDMENT NUMBER EIGHT

Article 9 of the Charter of the City of Palo Alto shall be amended by adding thereto a new section, to be known as section 10, and to read as follows:

SEC. 10. In the erection, improvement and repair of all public buildings and works, in all street and sewer work, done under and by authority of the laws of the State of California creating a bonded indebtedness of the municipality, or done under and by authority of any of the street laws of the State of California, which laws are hereby made a part of this Charter, the work shall be let to the lowest responsible bidder; provided, however, the council may reject any and all bids if deemed excessive, and readvertise for bids or provide for the work to be done by the Department of Public Works.

In case no bid is received, the council may likewise provide for the work to be done by the Department of Public Works.

When the estimate of the cost of said work by the City engineer shows that said work can be done for an equal or less cost than that of the lowest bid, then any of the work herein mentioned may be done by the Department of Public Works, and the said department shall be deemed the contractor, with the right to enforce all liens, and with the same powers, rights, duties and obligations as are made and provided by the laws of the state for contractors who have entered into contracts to do such work as the lowest responsible bidder.

The council shall have power to adopt ordinances for the purpose of carrying out these provisions, and such ordinances shall be supplemental to the existing laws of the State, and shall have the same force and effect.

CHARTER AMENDMENT NUMBER NINE

Article 9 of the Charter of the City of Palo Alto shall be amended by adding thereto a new section to be known as section 11, and to read as follows:

SEC. 11. Upon a petition of the owners of the majority of the frontage abutting upon any street or part thereof, the council shall have the power by ordinance to require, or provide, or adopt general law or laws for the planting, maintenance, or care of grass plots between the sidewalk and roadway in such street or part thereof, and to make the cost thereof a lien and charge upon the abutting property, and to make provisions for the enforcement of such liens by the sale of property or otherwise.

CHARTER AMENDMENT NUMBER TEN

Article 9 of the Charter of the City of Palo Alto shall be amended by adding thereto a new section, to be known as section 12, and to read as follows:

SEC. 12. The council shall have power, by ordinance, to require or provide for the removal of grass, weeds or other obstructions from the sidewalks, parkings or streets and to make the cost of same a lien or charge against the abutting property, and to make provision for the enforcement of such liens by the sale of property or otherwise.

CHARTER AMENDMENT NUMBER ELEVEN

Article 9 of the Charter of the City of Palo Alto shall be amended by adding thereto a new section to be known as section 13, and to read as follows:

SEC. 13. The council shall have power, by ordinance, to require or provide for the removal from property, lands, or lots, all weeds, rubbish or other material which may endanger or injure neighboring property, or the health or welfare of the residents of the vicinity, and to make the cost thereof a lien or charge upon such property, lands, or lots, or otherwise.

CHARTER AMENDMENT NUMBER TWELVE

Article 9 of the Charter of the City of Palo Alto shall be amended by adding thereto a new section to be known as section 14, and to read as follows:

SEC. 14. The council shall have the power, by ordinance, to enforce the laying of sewer, water or gas pipes or other mains or conduits on streets to be improved before the same are improved; and to require the owners of real property fronting upon any street, lane, alley, or other public place, in which there are or in which it is

proposed to be constructed, sewer, water or gas pipes, or other mains or conduits, to connect their several premises therewith, or to cause such connection to be made, and to make the cost of same a lien upon the property so connected, and to make provision for the enforcement of such lien by the sale of property or otherwise.

CHARTER AMENDMENT NUMBER THIRTEEN

Article 9 of the Charter of the City of Palo Alto shall be amended by adding thereto a new section to be known as section 13a, and to read as follows:

SEC. 13a. The City of Palo Alto shall have the power to repair or improve all streets or avenues in said city upon which street railway tracks are laid between the rails of said tracks and for two feet on either side thereof; said City shall also have the power to repair all excavations made in streets by any public service corporation, company or person.

All said work done by the City on account of street railways or excavations to be a lien upon any property of the corporation, company or person on whose account the work is done.

The person, company or corporation owning or operating any street railway in said City shall pay to the City one-third of the annual cost of watering, oiling, or otherwise treating such streets for laying dust thereon.

The council shall have power to adopt ordinances for the purpose of carrying out and enforcing this provision.

CHARTER AMENDMENT NUMBER FOURTEEN

Article 8 of the Charter of the City of Palo Alto shall be amended by adding a new section thereto to be known as section 4, and to read as follows:

SEC. 4. The majority vote of the electors required to pass an initiative ordinance, as provided by section 2 of this article, shall be not only a majority of the votes cast on the ordinance, but shall be an affirmative vote on such ordinance equal to a majority of the total number of those cast at the last preceding general municipal election.

CHARTER AMENDMENT NUMBER FIFTEEN

Article 7 of the Charter of the City of Palo Alto shall be amended by adding thereto a new section to be known as section 8, and to read as follows:

SEC. 8. The judge of said police court shall have power to administer oaths, take and certify affidavits in the same manner and like effect as justices of peace. He shall have and use a seal, on which shall be engraved the arms of the State and the words "Judge of the Police Court of the City of Palo Alto."

He shall have power to issue warrants, writs and summons in all respects as if issued by the justice of peace.

Any warrant, writ or summons issued out of said court may be served in any county of the state provided that there is attached to it a certificate under seal by the county clerk of Santa Clara County to the effect that the person issuing same was the acting judge of said court at the time of the issuance of said process.

Any justice of peace of Palo Alto township shall possess the same powers herein conferred upon the police court of said City, and in case of the disability or absence, or upon the request of the judge of said court, shall act as judge of said court; but the authority herein conferred upon said justice of the peace shall not be construed as impairing, reducing or taking from the police judge any right, power or jurisdiction vested in him.

CHARTER AMENDMENT NUMBER SIXTEEN

Article 7 of the Charter of the City of Palo Alto shall be amended by adding thereto a new section, to be known as section 9, and to read as follows:

SEC. 9. The chief of police shall be appointed by the Board of Public Safety. He shall have the same powers that are now, or may be hereafter, conferred upon sheriffs by the laws of the State, and shall in all respects be entitled to the same protection. He shall serve, and is hereby authorized to execute and return all processes, both civil and criminal, issued and directed to him by any legal authority; and

WHEREAS, The said proposed Amendments to the Charter of the City of Palo Alto so ratified are now submitted to the legislature of the State of California, for approval or rejection without power of alteration or amendment in accordance with section eight of article eleven of the State of California.

State of California
 County of Santa Clara } ss.
 City of Palo Alto }

This is to certify that we, Charles B. Wing, mayor of the City of Palo Alto, and Frank Kasson, clerk of the City of Palo Alto, have compared the foregoing proposed and ratified Amendments to the Charter of the City of Palo Alto with the original ordinance proposing such Amendments and submitting the same to the qualified electors of said City at a special municipal election, called for that purpose on Wednesday the 1st day of February, 1911, and find that the foregoing is a full, true, correct and exact copy thereof and of each of them; and we further certify that the facts set forth in the preamble preceding such Amendments to said Charter are and each of them is true, save and excepting that as to Amendment number seven, hereinbefore separately set forth, Charles B. Wing, as mayor of said City, refuses to certify said Amendment number seven as having been duly and legally adopted at said election by the voters of said City of Palo Alto, on the ground that said electors were misled in casting their vote on said Amendment number seven by reason of the fact that in the "Instructions to Voters" an error was made as to said Amendment number seven only, at said election; that this reservation or refusal to certify as to Amendment number seven is made without prejudice to Amendments numbers eight, nine, ten, eleven, twelve, thirteen, fourteen, fifteen and sixteen hereinbefore set forth;

That as to all of said amendments, except Amendment number seven, this certificate shall be taken as a full and complete certification as to the regularity of all proceedings had and done in connection therewith.

IN WITNESS WHEREOF, We have hereunto set our hands and caused the corporate seal of the City of Palo Alto to be attached, this 9th day of February, 1911.

[SEAL]

CHAS. B. WING,
 Mayor;

FRANK KASSON,
 City Clerk of the City of Palo Alto.

AND WHEREAS, The said ten amendments so ratified as hereinbefore set forth have been duly presented and submitted to the legislature of the State of California, for approval or rejection without power of alteration or amendment, in accordance with said section 8 of article XI of the constitution of the State of California; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly concurring (a majority of all members elected at each house voting for the adoption of this resolution and concurring therein), that the said ten amendments to the said Charter of the City of Palo Alto hereinbefore set forth as presented and submitted to, and adopted and ratified by the qualified electors of said City, be and the same are hereby approved as a whole for, and as amendments to the said Charter of said City of Palo Alto.

W. Carey Price

CHARTER

— OF —

CITY OF SAN ANTONIO

*Not Amended
Since 1907*

Chapter XLIV, Special Laws of 28th Legislature
(1903, p. 322) as amended by Act approved
April 13, 1907 (1907, p. 562).

(Effective July 1, 1903; Amendments of 1907 effective July 12, 1907.)

*Published and Issued by authority of the City
Council of City of San Antonio*



1907

G. F. SIGMUND, PRINTING AND BINDING



CHARTER OF CITY OF SAN ANTONIO.

Chapter XLIV, Special Laws of 28th Legislature (1903, p. 322), as amended by Act approved April 13, 1907 (1907, p. 562).

(Effective July 1, 1903; Amendments of 1907 effective July 12, 1907.)

ARTICLE I.—ORGANIZATION.

Section 1.* That the inhabitants of the City of San Antonio, in Bexar County, State of Texas, residing within the territory hereinafter described, shall continue to be and are hereby constituted a body politic and corporate, incorporated by the name of City of San Antonio, and by that name shall have perpetual succession, and shall have, and shall succeed to all the rights, property, real, personal and mixed, immunities, powers, privileges and franchises now held, possessed and enjoyed by said City or herein granted and be subject to all its present duties and liabilities, subject to the limitations prescribed in this Charter, and may have a corporate seal, sue and be sued, plead and be impleaded, in all courts, contract and be contracted with, ordain and establish such acts and regulations and ordinances not inconsistent with the Constitution and Laws of this State, as shall be needful for the government, interest welfare and good order of said City; take, hold, acquire and convey, lease and dispose of any property whatever in said City limits, and for sewer, sanitary, cemetery and other corporate purposes, to acquire necessary property by purchase or condemnation within or without the city limits, and to lease, convey and alien the same when no longer required; provided, that the city shall not sell the present "sewer farm" containing about five hundred and thirty acres, nor rent or lease the same for any purpose for a term exceeding one year, at any one time.

*Amendment of 1907.

Section. 2. The bounds and limits of said City, within which said corporation shall have jurisdiction, shall include six miles square, of which the sides shall be equi-distant from what is known as the cupola of the cathedral of San Fernando, and three miles therefrom, with lines running east, west, north and south, which bounds shall be ascertained and established under the direction of the City Council: provided, however, that said City shall also have jurisdiction extending over all property that it may own or hereafter acquire for corporation purposes outside of the limits of said City.

Section 3. The City Council shall divide the City into eight wards, fixing the boundaries thereof so that each ward shall contain as nearly as possible, the same number of electors, the boundaries of which wards said council may change from time to time as it may deem expedient. The council shall also divide each ward into suitable election precincts so that each precinct shall contain as nearly as possible the same number of electors, and the council may change such precincts from time to time as it may deem expedient. No change in wards or precincts shall be made within six months next preceding an election in said City, and the present wards and election precincts shall remain as now fixed until, in the judgment of the City Council, a change may be necessary.

Section 4. All elections shall be held in accordance with the laws of the State and this charter, and returns of such elections shall be made to the Mayor in the same manner as such returns are made under the State laws governing elections, but the City Council may adopt such other methods and regulations to protect the purity of the ballot as it may deem proper, not contrary to the laws of this State. The qualifications of voters shall be the same as are now or may hereafter be prescribed in the Constitution and laws of this State.

Section 5. In elections in which property taxpayers only are allowed to vote under this charter, only those who are actual taxpayers and whose names appear on the last assessment roll of the City shall be deemed property tax-payers, but if the name of any person offering to vote, he being otherwise qualified, does not appear on said tax roll and such person produces his property tax receipt of the preceding year and makes affidavit that he has paid

the same, he shall be entitled to vote, but the word "sworn" shall be written on the back of his ballot and opposite his name on the poll lists.

Section 6. All officers of election shall be selected by the council and shall be qualified voters of said City and of the election precincts in which they are to serve. The council shall provide such compensation for all officers of election as is provided by the laws of the State and may, by ordinance, further regulate and define their duties and powers.

Section 7. The municipal government of said City shall consist of a City Council, composed of a Mayor, four aldermen at large, and one alderman from each ward, and the other elective officers of said City shall be a city attorney, an assessor, a collector, a treasurer, an auditor and a judge of the corporation court.

Section 8. No person shall be elected or appointed to any office in said City unless he possesses the qualifications of an elector under the laws of the State and City, and has resided twelve months next preceding the election within the limits of the City; and no person shall be elected or appointed to the office of ward alderman unless, in addition to the above qualifications he be a resident of the ward from which he may be elected or appointed at the time of such election or appointment, and if a ward alderman shall remove from the ward from which he was elected or appointed his office shall be deemed vacant.

Section 9.* At each city election, there shall be elected by the qualified voters of the city at large, a Mayor, four aldermen at large, a City Attorney, an Assessor, a Collector, a Treasurer, an Auditor, and a Judge of the Corporation Court, and at the same time there shall be elected eight Ward Aldermen, one to be elected from each ward, by the qualified voters thereof, and all such elective officers shall qualify in their respective offices to which they have been elected, on or within twenty days after the first day of June after their election; and said officers shall hold their offices for two years, and until their successors have been elected and qualified.

Section 10. All elective officers of said City shall be subject to removal or suspension from office by the affirmative vote of eight

*Amendment of 1907.

aldermen for incompetency, official misconduct, or habitual drunkenness; provided, that no elective officer shall be removed or suspended from office until charges in writing are filed against him and he is given an opportunity of a fair hearing before the City Council.

Section 11. No member of the City Council or other city official shall hold any other office or employment under the City, and no alderman, officer, employe or servant of the City shall be directly or indirectly interested in any purchase, sale, business, work or contract, the expense, price or consideration of which is paid from the city treasury, or by an assessment levied by the City Council, nor purchase city warrants or claims against the City or any interest therein, nor be surety of any person or persons having a contract of any kind or business with the City for the performance of which security may be required. Any alderman, officer, servant or agent of the City violating this section shall be removed from office and discharged from service by the City Council. No alderman shall vote upon any question in which he has any interest distinct from that of the citizens at large, but in such case he shall disclose such interest and be excused from voting.

Section 12. An election shall be held in said City and in each ward thereof on the second Tuesday in May, 1905, for its elective officers, and every two years thereafter. Of such election at least twenty days' previous notice shall be given by proclamation, and such election shall be ordered by the Mayor, and in case of his failure to order the same, it may be ordered by the City Council or any two members of the Council, and the authority ordering the election shall appoint the presiding officers in each precinct.

Section 13. Every person elected or appointed to office in said City shall, before entering upon the duties of his office, take and subscribe the official oath prescribed by the State Constitution, and shall give such bond and security for the faithful discharge of his duties as may be required by the ordinances of the City.

Section 14. In the event that any person elected to an office fails or refuses to qualify and act within the time herein fixed after the official count and declaration of the result, the office shall be deemed vacant, and the Mayor shall, by appointment, fill the vacancy, subject to confirmation of the City Council.

Section 15. In case of a vacancy in the office of Mayor by death, refusal to accept, resignation, removal or other cause, such vacancy shall be filled by a majority vote of all the aldermen elected, and in case of a vacancy in any other elective office of the City, the Mayor shall fill such vacancy by appointment, subject to confirmation by the council; provided, that should a vacancy occur in the office of Mayor prior to nine months before any regular city election, then, it shall be the duty of the council to order an election to fill such vacancy in the same manner as a regular election is called, and such election shall be governed by the same laws as a regular election.

Section 16. All such officers, employes, agents and servants of the City, except elective officers, that may be deemed necessary by the council for the transaction of the business of the City and authorized by ordinance, shall be appointed by the Mayor and confirmed by the Council, but the Council may, by ordinance, abolish and re-establish any offices and employments created by the Council.

Section 17.* Any appointive officer, employe, agent or servant of the city, employed under authority of the council, may be discharged from service by the Mayor for any reason he may deem sufficient, and such appointive officers, employes, agents* and servants, unless so dismissed and discharged, or unless their offices and employments are abolished by the council, shall hold their offices until the next general city election, and until their successors, if any, shall be appointed and qualified; provided that no person shall be dismissed or discharged for political reasons; and provided that in case of discharge of any appointive officer by the Mayor, the Mayor shall file his reasons in writing for such discharge with the City Clerk at the time of such discharge, and such reasons shall be open for public inspection, and such discharge shall be approved by a majority of the City Council; and provided, further, that the City Council may, independent of the above power of discharge given the Mayor, also provide by ordinance, for the suspension or removal, by two-thirds vote of the entire council, of any appointive office, employe, agent, or servant of the city employed under authority of the council, for incompetency, official misconduct or habitual drunkenness and provide for the temporary suspension of such officer, employe, agent or servant during the pendency of charges against him.

*Amendment of 1907.

Section 18. The elective officers of said City shall receive from the City the following annual compensation, payable in monthly installments, and no more: The Mayor, thirty-six hundred dollars; provided, that the salary of the Mayor shall not be paid during his absence from the City, unless such absence is on business of the city, or unless the Mayor is excused by the City Council; the auditor, two thousand dollars; the city attorney, two thousand dollars; the judge of the corporation court, twelve hundred dollars; the treasurer, twelve hundred dollars; the assessor two thousand dollars; the collectors, twenty-five hundred dollars; the mayor pro tempore shall receive the same salary as the mayor when acting as such, in addition to his salary as alderman, but shall not receive both salaries for the same day; and each alderman five dollars for every meeting of the council attended, and aldermen shall be exempt from jury service. The salaries and wages of all other officers, employes, agents and servants of the City shall be fixed by the Council. The provisions of this section regulating salaries of elective officers shall not take effect until the next general city election, and until said time said elective officers shall receive the salaries that they are now receiving.

Section 19. The City Council shall have the care, management, and control of the City and its finances, and a majority of all the aldermen elected shall constitute a quorum for the transaction of all business, except for the imposition of taxes, the granting of franchises and the appropriation of money, in which case not less than eight aldermen present and voting shall constitute a quorum, and no tax shall be imposed, franchise granted or money appropriated except upon the affirmative vote of at least eight aldermen.

Section 20. The City Council, or a majority thereof, may act by resolution in all cases except where an ordinance is by this Act required; provided, that no contract on the part of the City shall be made or authorized, nor any money appropriated from the funds of the City nor any franchise or privilege for the use of any of the public streets or other public places of said City be granted or extended, nor any lands of said City be conveyed or leased, nor authority for such conveyance or lease given otherwise than by ordinance.

Section 21. The City Council shall consist of the Mayor and twelve aldermen, and shall meet at such times and places as shall be

determined by ordinance or resolution, and shall hold regular meetings at stated times at least once in each month, and any three aldermen may call a special meeting of the council stating the object of such call. The council shall have power to prescribe, by ordinance, rules and regulations for its government while in session, and the manner in which all business may come before it, and shall have power to enforce such rules and to compel the attendance of absent members. The Mayor shall preside at all meetings of the council, but shall not have a vote except in cases where a majority is sufficient to decide the matter in issue, and there shall be a tie, in which case, he shall cast the deciding vote. All aldermen voting at a meeting of the City Council shall vote by yea and nay upon all questions when demanded by one member and the yeas and the nays shall be entered upon the minutes.

Section 22. The City Council at the first meeting after the election, or as soon thereafter as practicable, shall elect one of the aldermen to act as Mayor pro tempore, who, during the absence or inability of the Mayor, shall perform the duties of the Mayor. In the absence or inability of both the Mayor and Mayor pro tempore, the council may elect some alderman to perform their duties, but the Mayor pro tempore or such aldermen acting as Mayor shall vote in the council on all questions only as alderman.

Section 23. The Mayor of said City shall be the chief executive of said corporation, and shall be vigilant and active at all times in causing the laws to be enforced and the ordinances of said City to be duly executed. He shall have power, whenever the good of the City shall require it, to summon special meetings of the City Council, specifying the purpose of such call, and he shall from time to time communicate to the council all such information and recommend such measures as may tend to the improvement of the finances, police, health, cleanliness, comfort, ornament and general welfare of the City.

Section 24. The Mayor shall sign the commissions of all persons elected or appointed in the city government, and all warrants drawn upon the treasurer, and all such commissions and warrants shall be attested by the city clerk. He shall have power when he deems it necessary, to require any officer to exhibit his accounts or

other papers, and make report to the council in writing, touching any subject or matter pertaining to his office.

Section 25. The Mayor shall be a conservator of the peace throughout the City, and shall at all times have power to appoint any number of special policemen that he may deem necessary to preserve the peace of the City, and dismiss the same at pleasure. He may call on every male inhabitant of the City over eighteen years of age and under fifty years of age to aid in enforcing the laws and ordinances of the City, and, in case of necessity, to call out the militia within the City to aid in the suppression of any riot, or in the enforcement of the city ordinances; and any person who shall not obey such call, shall be liable to such fine as may be provided by the council. The Mayor shall also have the power to remit fines and to grant pardons for all offences arising under the ordinances of the City.

Section 26. The Mayor shall have the power to veto any ordinance or resolution adopted by the City Council at any time before the next regular meeting of the council after the passage of such ordinance or resolution. If the Mayor shall fail within said time to veto such ordinance or resolution and return the same with his objections to the council at its next regular meeting, the same shall take effect without his approval. If the Mayor shall veto such ordinance or resolution and return the same to the council at its next regular meeting and eight or more of the aldermen agree to pass the same, and cause their votes to be so entered on the journal of the proceedings, such ordinance or resolution shall become effective without the Mayor's approval.

Section 27. The Mayor shall, from time to time, make such recommendations to the council as he may deem to be for the welfare of the City, and he shall, each year, immediately before taxes are levied, submit to the council an annual budget of the current expenses of the City, itemized by departments, and include such an amount for contingent expenses as he may deem necessary; provided, that the City Council shall have the power to increase, diminish or omit any item in such budget.

Section 28. The mayor shall, within thirty days after the close of each fiscal year, cause to be published in pamphlet form for general distribution, an exhibit of the financial condition of the City for

such fiscal year. Such exhibit shall specify the amount of receipts of the year and the sources thereof, the amount of expenditures in each department of the City and for what purposes such expenditures were made, the conditions of each fund, and such other data as to give a full and complete financial statement of the year.

Section 29. The city attorney shall represent the City in all litigation to which the City may be a party, except in cases in the corporation court and cases appealed therefrom, but he shall have supervision of all such cases. He shall give his opinion when called upon, on all legal questions arising under the city government, and attend meetings of the City Council to give his advice and counsel upon the legal aspects of any question pending before them, when so requested.

Section 30. The city assessor shall make up the assessment of all property taxed by the City in accordance with this charter. It shall be his duty to assess within the time herein fixed, all property subject to taxation in said city, whether the same be rendered to him or not, and to make out a list of the same, and of the persons chargeable with a poll tax. He shall assess all property at its face value, giving the value of lands and improvements separately, and shall also assess personal property of whatever nature, including franchises, privileges and choses in action. He shall describe all property assessed sufficiently to identify the same, giving the name of the last known owner thereof, and if the owner is unknown, he must state that fact. He shall assess property which has been omitted from assessments during past years upon the next assessment roll after discovering that fact, and at the same rate such property should have been assessed for such past years, giving the year for which it is assessed, and the taxes thereon shall be collected thereon in the same manner as other assessments. The assessment rolls and tax receipts shall be made up and filed with the auditor on or before the first day of April of each year. In addition to these powers, the assessor shall have all the rights that are now or may be hereafter conferred upon county assessors of this State, and shall perform such other duties as may be prescribed by the City Council.

Section 31. The city collector shall collect all ad valorem, poll and occupation taxes and other license, fees and dues as may be pre-

scribed by the City Council, and give receipts therefor upon receipts furnished him through the auditor's office. He shall, on each Monday, furnish a statement to the auditor, showing the total collections made by him during the previous week and the funds to which they belong, and shall deposit with the treasurer weekly, by means of deposit warrants, all moneys collected during the previous week. He shall keep a daily cash book in his office, showing by items his daily receipts, and make to the auditor weekly, monthly and annual reports of all collections made, and he shall perform such other duties and follow such other rules and regulations in the transaction of the business of his office as may be prescribed by the City Council.

Section 32. The treasurer shall receive all money paid to him on behalf of the City, giving receipts therefor, and deposit the same in the depositories designated by the City Council, and pay out the same only upon warrants signed by the Mayor and attested by the city clerk. He shall keep regular and correct accounts with all funds established by the council, and shall render to the auditor full and correct quarterly statements of all his receipts and payments by funds, and to each quarterly report he shall attach the affidavit of some officer of the bank or trust company wherein such deposits have been made that the moneys as shown by his quarterly report are to his credit in said bank or trust company. He shall at all times give statements to the City Council about any matter in his office, make such reports as they may direct and perform such other duties as may be prescribed by the council.

Section 33.* The auditor shall be an expert book-keeper, and shall be the general accountant of the city, shall keep regular accounts of all receipts and disbursements, including accounts with every official collecting money for the use of the city, examine all bills and accounts presented for payment, keep separate accounts with each special fund, prepare all warrants ordered by appropriation by the council, make out all deposit warrants for money to be deposited with the Treasurer, and examine and audit the books and accounts of all city officials. At the end of each quarter of the fiscal year he shall make a statement showing the financial condition of the city, and of each fund, the receipts and disbursements during the quarter, and the departments wherein such expenditures were made, giving the

*Amendment of 1907.

amount expended by each, including approved vouchers against the city, the source of all receipts, the number and date of each warrant drawn, the amount thereof, the name of the person to whom the same was issued, the fund from which, and the purpose for which it was drawn. He shall then, and within ten days thereafter, publish in a daily newspaper of the City of San Antonio a recapitulation of such statement, showing in condensed form, the financial condition of the city and of each fund, the receipts and disbursements during such quarter, and the departments wherein such expenditures were made, giving the amount expended by each. The Auditor shall perform such other duties and follow such regulations as may be prescribed by the City Council.

Section 34. The judge of the corporation court shall preside over the corporation court as judge, and such court shall have such jurisdiction and powers as are now or may hereafter be conferred upon corporation, Mayors' or recorders' courts by the laws of this State. The recorder shall not be entitled to any fees and he shall hold the court at such times as may be prescribed by the council, and in his absence or disability, the court shall be held by the Mayor pro-tempore, or some alderman elected by the council.

GENERAL PROVISIONS.

Section 35. The style of all ordinances shall be "Be it ordained by the City Council of the City of San Antonio," but this may be omitted where the ordinance is published in form of book or pamphlet. Every ordinance shall be read at three several regular meetings of the council, and no ordinance shall be passed by the council unless and until it shall have been read at three such meetings; provided, however, this rule may be suspended by the affirmative vote of eight aldermen, in which event an ordinance may be read three several times and passed at one regular meeting of the council.

Section 36. All ordinances and resolutions shall go into effect on the day of their approval by the Mayor, or on the day of their passage over the Mayor's veto as herein provided, unless such ordinance or resolution shall in terms provide otherwise; provided, however, that all penal ordinances for the violation of which a fine may be imposed by the judgment of the corporation court, shall not go

into effect until the tenth day after their approval by the mayor or passage by the council without such approval, nor until they have been published at least ten times in some newspaper published in said City. The fact of such publication may be proven by the affidavit of the publisher; to be returned to the city clerk and by him to be recorded in the book of ordinances, or by certified copy of such affidavit under hand of the city clerk and seal of the City, or by other competent evidence. The City Council shall cause all of the general ordinances of the City to be published in pamphlet form, and printed copies thereof, purporting to be issued by the City, shall be prima facie evidence of such ordinance and publication, and the same shall be admissible in evidence in all courts without further proof.

Section 37. Certified copies of the records, papers and books of the city officers shall be admissible in evidence when certified to by the custodian of such papers, books and records, and attested by him under his seal, if he have one; provided, that for issuing such certified copies the City shall receive such fees as may be provided by ordinance.

Section 38. Every citizen shall, during office hours, have the right to examine any and all books, vouchers, records and papers belonging to the City and in custody of any of its officers, and shall have the right to take copies; and it shall be the duty of the proper custodian of such papers and records to produce and exhibit any such papers or records demanded to be inspected by any such citizen.

Section 39. The head of each department of the City government shall make to the Mayor, each and every year at such times as he may request it, a report, showing the operations of the department for the preceding year, and accompanying such report and submitted therewith shall be a detailed estimate of the operating and contingent expenses of the department for the current year. These reports shall be transmitted by the Mayor and be made a part of the Mayor's report to the council, which report shall be made not later than the first day of March of each and every year, at which time the Mayor shall make up and transmit to the council the annual budget, with such recommendations concerning the increasing or decreasing of department estimates as in his judgment may best serve the interest of the City.

Section 40. Any debt hereafter contracted by any officer of the City, or by any person on account of the City, the payment of which has not been previously provided for by ordinance duly adopted by the City Council, shall be absolutely null and void and uncollectable at law or in equity, and it shall be the duty of the city attorney to plead this statute to defeat the collection or enforcement of any such claim or debt.

Section 41. No officer of the City shall ever be entitled to costs or fees of office except for the use of the City, and all penalties, forfeitures, fines, costs and fees of office to accrue hereafter, shall be paid into the city treasury, and no money shall be drawn from the treasury except in the pursuance of a specific appropriation of the council; nor shall any appropriation for private or individual purposes be made.

Section 42. No execution shall be issued or levied by virtue of any judgment that may be recovered against the City, but the council shall provide for the payments of judgments in the levying of taxes next after the final recovery of such judgments from the City. No person shall be incompetent as a judge, justice or juror by reason of his being an inhabitant or freeholder in said City or subject to taxation by said City in any action or proceeding in which said City may be a party at interest; and no police officer shall be liable for damages for any act committed in the proper discharge of his duties.

Section 43. Lands, houses, moneys, debts due the City, personal and real property, and assets of every description belonging to the City, shall be exempt from execution and sale; but the City shall make provision, by taxation or otherwise, for the payment of any and all indebtedness due [by] the City.

Section 44. No writ of garnishment shall issue against the City to subject or seize any debt due or which may hereafter become due from the City to any person or corporation, or any claim or demand upon any fund in the hands of said City or any of its officers; nor shall the City or any of its officers or agents, be required to answer any writ of garnishment.

Section 45. The City shall not be required to give any bond for security for costs or any other security in any suit or action brought

by or against it, or in any proceeding to which it may be a party in any court in this State; and said City shall have the remedies of appeal and writ of error to all courts in this State without bond or security of any kind, but said City shall be liable in the same manner and to the same extent as if the bond, undertaking or security required in other cases had been really executed and given.

Section 46.* Before the City of San Antonio shall be liable for damages of any kind, the person injured, or some one in behalf of such person, shall give the Mayor notice in writing of such injury within sixty days after the same has been received, stating in such notice when, where and how the injury occurred and the extent thereof; provided, however, that in no event shall the City of San Antonio be liable in damages to any one on account of any defect in, obstruction on, or anything else in connection with any sidewalk in the city. And provided further, that, in order to hold the City of San Antonio liable in damages to any one on account of any injury caused by any defect in, obstruction on, or anything else in connection with any street outside of the side walks along the same, it must be shown that the Mayor or some person having superintendence and control of work on the streets for the city had actual knowledge or actual notice of such defect, obstruction or other thing for a sufficient length of time before such injury was received, to have remedied such condition of the street before the injury was received, or by exercise of ordinary care and diligence might have ascertained the existence of such defect or obstruction.

Section 47. Upon recommendation of the city attorney, the City Council may compromise any suit filed by or pending against the City, but in all such cases the city attorney shall file with the city clerk his reasons, in writing, for such compromise.

Section 48. All rights, actions, penalties, and forfeitures in suits or otherwise which have accrued under the law heretofore in force, shall be vested in and possessed by the corporation hereby created, and no suit pending shall be affected by the passage of this Act, but the same shall be prosecuted or defended, as the case may be, by the corporation hereby created.

*Amendment of 1907.

Section 49. The cemetery lots which have been or may hereafter be laid out and sold by said City for private places of burial, shall, with the appurtenances, forever be exempt from taxes, executions, attachments and forced sales.

Section 50. The present elective officers of the City of San Antonio shall continue to perform the duties of their offices, unless removed as herein provided, until the next general election under this charter, and all ordinances of the City of San Antonio now in force not contrary to the provisions of this Act and the laws of this State, shall continue in force until repealed.

ARTICLE II.

POWERS OF CITY COUNCIL.

Section 51. The City Council shall have the care, management and control of the City, its property and finances, and shall have power to enact, ordain, alter, modify or repeal any and all ordinances not repugnant to this charter and the Constitution and laws of the State, and shall have power, by ordinance:

Section 52.* To provide for the payment of the current expenses of the City, and direct that warrants be drawn for the same against the current revenue of the current fiscal year, and every warrant so drawn against said revenue shall be a lien upon said revenue of said fiscal year whenever the same may be collected, and the said warrant shall be numbered and paid in the order of numbers and months; that is, the warrants drawn for the current expenses of the first month of the fiscal year shall be paid before any warrants drawn for the current expenses of the second month of the fiscal year, and so on throughout the year. Warrants drawn for the current expenses of a fiscal year shall not exceed the amount of income for such fiscal year, and such income shall be based upon the assessed values, the tax rate thereon and other revenue of the city from other sources. The revenue and income of the city for any fiscal year shall not be used for the payment of any debts or obligations incurred in, for, or during any other fiscal year until all current debts and obligations for such year have first been paid.

*Amendment of 1907.

Section 53.* To borrow money on the credit of the city and issue bonds therefor for permanent public improvements; but, every proposition to borrow money, as aforesaid, shall be submitted to the qualified tax paying voters of the city, and shall distinctly specify the purposes for which the loan is desired, and the permanent public improvements to be constructed; and if said proposition be sustained by a majority of the votes cast, such loan shall be lawful; provided, that several improvements of different and distinct character and nature may be submitted in one proposition. All bonds shall specify for what purpose they were issued, and, when sold, shall net the city not less than their par value, with accrued interest to the date of payment of the proceeds into the city treasury, and the bonds may be negotiated in lots, as the City Council may determine and direct. No debt shall be contracted for the payment whereof such bonds or lot thereof are issued until such bonds or lot thereof shall have been disposed of and the proceeds paid into the city treasury, or the contractor undertaking such public improvements shall agree to take said bonds in payment for the work to be performed; and no debt shall ever be created by said city unless at the same time provision be made to assess and collect annually a sufficient sum to pay the interest thereon and create a sinking fund of at least two per cent thereon. The interest and sinking fund shall not be diverted or used for any other purpose than to pay the principal and interest on such bonds and the city treasurer shall honor no draft drawn on said fund except to pay the interest or to redeem the bonds for which it was provided. The rate of tax for interest and sinking fund on the outstanding bonded debt of the city shall never exceed sixty cents on the one hundred dollars valuation annually, and the rate of interest paid shall not exceed five per cent and no loan shall be made for any other purpose or purposes than those connected with the corporation of said city. No loan shall be made to aid any private enterprise, railroad or undertaking not under the management and control of the City Council. The sinking fund for the redemption of any loan or debt shall be invested as fast as it accumulates, in United States interest bearing bonds, or bonds of the State of Texas, or of Bexar County, Texas, or in bonds of the city, or of any improvement district thereof, and the interest of such bonds shall be re-invested, and such bonds shall be

*Amendment of 1907.

sold when necessary to pay interest or principal of the bonds issued under the provisions of this section.

Section 54. To borrow money on the credit of any improvement district of the City and issue bonds therefor for permanent public improvements in such district, and to this end the council may divide the City, or any portion thereof, into improvement districts, clearly defining the limits of each district; but every proposition to borrow money on the credit of any improvement district for permanent public improvements therein shall be submitted to the qualified tax-paying voters living and owning property in such district, and shall distinctly specify the purposes for which the loan is desired and the permanent public improvements to be constructed, but several improvements of different and distinct character and nature may be submitted in one proposition. If said proposition be sustained by a majority of the votes cast in such election in such district, such loan shall be lawful. All bonds shall specify for what purpose they were issued, shall bear interest at a rate not greater than five per cent per annum, and, when sold, shall net not less than par value, with accrued interest to date of payment of the proceeds into the city treasury, and such bonds may be negotiated in lots, as the City Council may decree. No debt shall be contracted for the payment whereof such bonds are issued until such bonds shall have been disposed of, and no debt shall ever be created against any such improvement district unless at the same time provision be made to assess and collect annually upon the property in such improvement district a sum sufficient to pay the interest on such bonds and create a sinking fund of at least two per cent thereon. The interest and sinking fund tax which shall be collected annually from the property in such improvement district for such bonds shall be in addition to the other current taxes, levied by the City, and shall be kept separate by the city treasurer from other funds, and shall not be diverted or used for any other purpose than to pay interest and principal on such bonds and the city treasurer shall honor no draft on said fund except to pay the interest and redeem the bonds for which it was provided. The sinking fund for such bonds shall be invested as provided in section 53 of this charter, or bonds of such improvement district. The tax levied for interest and sinking fund for bonds issued for permanent public improvements in any district shall not exceed twenty-five cents on the one hundred dollar valuation annually.

Section 55. To provide for the payment of the debts and expenses of the City and to issue refunding bonds for the purpose of redeeming bonds bearing a higher rate of interest or paying matured bonds; but the bonded debt of the City shall not be increased, nor any other evidence of debt issued, unless authorized by a vote of the qualified property taxpayers, as hereinbefore provided, except as provided for in section 52 hereof; and the bonded debt of the City shall never exceed ten per cent of the total assessed value of the property in the City according to the last assessment roll; provided, that in estimating the total bonded debt of the City, the bonded debt of any improvement district shall not be counted.

Section 56.* To regulate and prescribe the duties and powers, and compensation of all appointed officers, agents and employes of the city, and to require bonds of all officers or agents of the city, whether elected or appointed; to create any office or agent deemed necessary for the good government and interest of the city, and to change and prescribe additional duties of all officers and agents; provided, that the powers prescribed by this charter for elective officers shall not be diminished, and provided further, that the City Clerk and all of his assistants shall have power to administer oaths and affirmations, and give certificates thereof.

Section 57. To provide the City and its inhabitants with water and light for public and private use, and to this end the council shall have power to provide for the construction by the City or any person for it, a water and electric light or gas plant, or a combined plant for any and all said purposes; to purchase any such plants that are now or may hereafter be erected in said City; to regulate and prescribe the rates, prices and terms at which water, electricity and gas shall be furnished for public and private purposes to the City and its inhabitants by water, electric light and gas companies, public or private, that are now or may hereafter be established in said City; to contract with water, electric and gas companies for furnishing water, electricity and gas to the city for public purposes.

Section 58. To build, construct, contract to be constructed, or acquire any of the public utilities of the City, such as gas, water, telephone, street railway and electric plants, subways or underground conduit systems for electric light, power, telephone, telegraph, or

*Amendment of 1907.

other wires used for the purpose of transmitting an electric service, and such utilities and systems may be purchased and constructed by a payment in cash of twenty-five per cent. of the price agreed upon, and the balance in annual installments, including interest, to be paid out of the revenues of such utility; and such works so constructed or purchased shall stand pledged for payment of the amount due thereon; provided, that no expenditure for such purpose shall be made unless the proposition for the acquisition or construction of the same is first submitted to a vote of the qualified property taxpayers, at an election to be held for the purpose of voting thereon, and a majority of such voters shall vote in favor of such proposition and the City Council shall have the power to carry out all the terms of this section by ordinance.

Section 59. To do all acts and make all regulations which may be deemed necessary for the protection and promotion of health or the suppression of disease, and abate all nuisances which may impair or affect the public health or comfort, in such manner as may be deemed expedient.

Section 60. To prevent the introduction of contagious diseases into the City, to make quarantine laws for that purpose and to enforce the same within five miles of the City, and to make all ordinances and regulations to prevent the spread of any contagious diseases within the city limits; to enforce vaccination and to establish hospitals and pest houses, and to regulate the establishment of private hospitals.

Section 61. To direct the location of breweries, tanneries, blacksmith shops, foundries, livery stables and manufacturing establishments; to direct and regulate the management, construction and cleaning, and restrain, abate and prohibit within the City, slaughtering establishments, stockyards, hide houses, warehouses, stables and privies, or establishments for keeping or curing hides, tallow, offal and such other substances as may be rendered, and all other establishments or places where noisome, offensive or unwholesome matter is liable to accumulate.

Section 62. To require the owner, agent or occupant of any grounds, lots, yards, private drains, sinks or privies, to fill up,

cleanse, alter, repair, fix and improve the same, and require all owners of property to connect with the city sewers.

Section 63. To regulate, direct and control the direction and construction of telegraph and telephone lines and electric light posts, poles, and wires, and to require the removal and changing of all such posts, poles and wires, and to require the laying of all telegraph, telephone, electric light and all other wires underground in such manner and at such depth and with such insulation as the City Council may deem necessary and proper; to regulate, direct and control the laying and repairing of all gas, water and oil pipes in the streets, alleys, sidewalks, and public places of the City, and to regulate the prices to be charged by telephone companies for service to the public.

Section 64. To provide for the erection of all useful and necessary buildings for the use of the City, and for the protection and safety of all property belonging to the City, and to provide for the safety and protection of private property where damages are likely to accrue by action of the elements.

Section 65. To establish a police force and regulate the same; to erect, establish and regulate one or more prisons, work-houses, house of correction and poor houses, and provide for the government and support of the same.

Section 66. To establish, erect and build public libraries and provide funds for the maintenance of the same, and that such libraries shall be managed by a board of trustees and the City Council shall annually levy and collect a tax of two cents on each one hundred dollars valuation of all property situated in said City for the support and maintenance of what is known as the Carnegie Library in said City, and said fund shall be protected for the uses of said library in the same manner as the interest and sinking fund for the benefit of the bonded debt is now protected by law.

Section 67. To provide measures to keep the waters of the river and streams pure, to remove all obstructions or dams in said river or streams within the limits of the City; to widen and deepen the channel of said river and streams, to prevent the erection of factories or establishments on the banks of any stream or ditches which will be-

foul or make impure the waters of such river or ditches; to alter and establish the channels of any streams, ditches or water courses within the limits of the City when the health, safety or convenience of the City requires such to be done, and to wall up or cover ditches or canals; to make, regulate and abolish irrigation ditches and have full control of the same and to fix the terms and prices to be charged for water therefrom.

Section 68. To establish, erect, construct, regulate and keep in repair bridges, culverts, sewers, sidewalks and cross ways, and to regulate the use of the same and abate any obstruction or encroachments thereon.

Section 69. To provide for the inspection of meat, fish, vegetables, fruit and every or anything offered for sale in the market places or elsewhere in said City; to provide for the inspection, before slaughter, of all animals intended for slaughter or to be offered for sale after slaughter in said City; to prescribe rules and regulations as to the place and manner in which all animals are slaughtered, and charge and provide license fees for such inspection; to require the hides and skins of animals slaughtered for sale in said City to be exhibited, and to provide for the keeping of a record of the marks and brands of such animals; to prohibit and regulate the sale within the City of any meats slaughtered outside the limits of the City; to erect and maintain market houses and regulate everything relating to butchers; to establish and maintain a standard of the quality of milk sold in the City and provide penalties for the violation thereof.

Section 70. To regulate the sale within the City of cocaine, morphine, opium, chloral, or any other poisonous drugs, and provide that the same shall be sold only upon the prescription of a licensed physician.

Section 71. To provide for the purchase, maintenance, regulation and improvement of public parks, plazas, grounds and cemeteries of the City, to direct and regulate the planting and preserving of ornamental and shade trees on the streets, sidewalks and public grounds, and to establish and maintain zoological gardens, and to provide public musical concerts in the city parks and plazas.

Section 72. To make regulations for the inspection and construction of buildings and to cause unsafe buildings to be made safe or removed, and to prescribe and prohibit the use of certain materials; to prescribe the thickness of walls and height of buildings; to require every person desiring to erect a building in the City to take out a permit for the same, and to keep a register of all buildings, both private and public, erected, and the cost thereof, the kind and material used, and of the intended use of such buildings.

Section 73. To restrain and regulate the selling or giving away of any intoxicating or malt liquors by any person, firm or corporation, although duly licensed by the State, when the place of business of such person, firm or corporation is connected with a house wherein gaming is permitted to be carried on where the same is connected with a vaudeville or other place where theatrical performances are held by whatever name called.

Section 74. To provide and cause to be taken an enumeration of the inhabitants of the City.

Section 75. To license and regulate billiard tables, pin alleys and ball alleys, to suppress and restrain disorderly houses, ball rooms, bawdy houses, houses of prostitution and assignation, gambling and gambling houses, lotteries and all fraudulent devices and practices and all kinds of indecencies.

Section 76. To license and regulate hackmen, draymen, drivers of omnibuses and baggage wagons, porters and all others pursuing like occupations with or without vehicles, and prescribe their charges, and to regulate, license and restrain runners for hotels, stages and public houses.

Section 77. To prohibit and punish the owners, lessees and agents of theaters or other places where indecent, lewd or immodest dramatic or theatrical representations are given and adopt summary measures for the removal or suppression of all such entertainments and establishments; to license and regulate, suppress and prohibit hawkers, peddlers, pawnbrokers, and regulate keepers of theatres and other exhibitions, shows or amusements.

Section 78. To restrain, prohibit and punish vagrants, mendicants, street beggars, prostitutes and gamblers, and punish the

keepers of all houses of prostitution and games and gambling devices with as great penalty as the same is punished by the statutes of the State. The corporation court of the City of San Antonio shall have concurrent jurisdiction with justices' courts of all such misdemeanors when committed within the corporate limits of said City.

Section 79. To establish standard weights and measures to be used within the City in all cases not otherwise provided by law; to require all trades and dealers in merchandise or property of any kind which is sold by weight and measure, to cause their weights or measures to be tested and sealed, but the standard of such weights and measures shall conform to those established by law.

Section 80. To regulate and provide for the inspection and measuring of lumber, shingles, timber, posts and all kinds of building materials, and for measuring all kinds of mechanical work; to provide for the measuring of wood and weighing of hay and the manner and place of selling the same.

Section 81. To prevent and suppress any riot, affray, noise disturbance, disorderly conduct or assembly in any public or private place in the City, and prohibit the carrying of deadly weapons within the city limits.

Section 82. To prevent and prohibit any immoderate driving or running of horses or other animals, or motor vehicles in the streets or public places of the City; to compel persons to fasten their horses or other animals, whether attached to vehicles or not, while standing or remaining in the streets; to prevent, regulate, and control the driving of cattle, horses and all other animals through the City, and to prohibit all cruelty to animals.

Section 83. To establish and regulate public pounds and to regulate and prohibit the running at large of horses, mules, cattle, sheep or other animals; to authorize the detaining, impounding and sale of the same for the cost of proceedings and the penalty incurred; to tax, regulate, restrain and prohibit the running at large of dogs; to require licenses for all dogs kept in the City and to provide for the impounding of all dogs running at large.

Section 84. To purchase, establish and regulate one or more cemeteries within or without the City limits; to regulate and pro-

vide for the registration of births and deaths; to direct keeping of records of mortality and impose penalties upon physicians, sextons or others for any default in the premises, and regulate the burial of the dead.

Section 85. To prevent and prohibit boxing matches, sparring exhibitions, cock and dog fighting, bull fighting and all brutal exhibitions, to license, tax, regulate and suppress public balls, dances, and all other public places of resort and amusement.

Section 86. To prevent and prohibit all disturbances, breaches of the peace and good order, assaults, assaults and battery, fighting, quarrelling, using abusive and insulting language, misdemeanors and all disorderly conduct.

Section 87. To prevent and punish the keeping of houses of prostitution within the City or within such limits therein as may be defined by ordinance, and adopt summary measures for the removal or suppression of all such establishments.

Section 88. To provide for the inspection of all buildings and establishments for educational or asylum purposes; to require that the inmates be properly treated, and to require all institutions of whatever nature used as asylums, colleges, hospitals, or boarding schools to make reports of the number of the inmates and the sanitary condition of the same.

Section 89. To establish, regulate and maintain a fire department and to fix fire limits within which only buildings constructed of approved material will be allowed to be built, and, generally, to make and enforce all such regulations for the prevention, spread and extinguishing of fires as may be deemed expedient.

Section 90.* To have the exclusive control and power over the streets, alleys, sidewalks and public grounds and highways of the city, and to abate and remove encroachments or obstructions thereon; to open, alter, widen, straighten, extend, establish, regulate, abolish, close the same or any part thereof, grade, re-grade, clean, pave, macadamize, or otherwise improve any of the streets or public places in said city; to put drains and sewers therein and prevent the incumbering thereof in any manner and to protect the same from any encroach-

*Amendment of 1907.

ments and injury. Provided, that the City Council shall not receive, approve or allow to be filed a plot of any sub-division of property in the city unless and until the owners of said property shall have first laid out, monumented, curbed and macadamized all the streets in said subdivision, and the City Engineer shall not give lines for any subdivision hereafter laid out unless the provisions of this section shall have been complied with.

Section 91. To compel by appropriate penal ordinances the laying of sidewalks by property owners in front of or abutting on their land, and may prescribe the character of sidewalks to be laid, and provide by ordinances that the City shall not pave with brick, block, asphalt, stone or gravel any street until the owners of the property abutting thereon shall have previously laid a curb and sidewalk abutting upon the said street, and the council shall have the right to prescribe the kind of sidewalk and curb to be laid.

Section 92. To prevent and prohibit the incumbering or blocking of the streets, alleys, sidewalks and public places with any vehicle whatever, or with awnings, posts, signs, or any obstruction of any kind to compel all persons to keep weeds, filth and all kinds of rubbish from the sidewalks, streets and gutters in front of premises occupied by them; to require and compel the owners to fill up, grade, pave and otherwise improve the sidewalks in front of and adjoining their property.

Section 93. To prohibit and restrain the rolling of hoops, flying of kites, firing of firecrackers or firearms or fireworks or pyrotechnics of any kind, the use of velocipedes or any practice tending to annoy persons passing in the streets or sidewalks, or to frighten horses and teams; to restrain, prohibit and regulate the ringing of bells, blowing of whistles, horns and bugles, playing of street organs or other music, crying of goods, and all other noises, practices and performances creating annoyance or tending to the collection of persons on the streets and sidewalks for the purpose of business, amusement or other purposes.

Section 94. To direct and control the laying and construction of railroad and street railway tracks, turnouts and switches, and prohibit the same in the streets, avenues and alleys and regulate the location of depot grounds within the City; to require that rail-

road and street railway tracks, turnouts and switches shall be so constructed as to interfere as little as possible with the ordinary travel and use of the streets, avenues and alleys, and that sufficient space shall be left on either side of said tracks for the safe and convenient passage of teams, carriages and other vehicles and persons, and to require the building by railway companies of subways or viaducts; to require railroad and street railway companies to grade, pave and keep in repair the public streets, highways, squares, plazas and other public places through which their tracks may run, such grading, paving and repairs to embrace the space between rails, the space between tracks and a width of eighteen inches outside of the outermost rails on either side; to require railroad and street railways companies to construct, keep in repair and light crossings at the intersections of their tracks with streets, avenues, alleys, ditches, sewers, culverts, and to regulate the speed of locomotive engines, trains and street cars within said City, and to require the same to come to a full stop at such streets and places as may be deemed necessary by the council to prevent accidents.

Section 95. To exclusively control and regulate everything connected with street railways and to make such rules and regulations for the same as the City Council may deem necessary.

Section 96. To restrict the sale of tickets, passes or other evidence of the right to travel on any railroad or street railway to duly authorized agents of the railroad or street railway company issuing or authorizing the issuance of the same, and to prohibit the sale of all tickets, passes or other evidence of the right to travel on any railroad or street railway by any person other than duly authorized agents of the railroad or street railway company issuing or authorizing the issuance of the same, and to provide penalties for a violation of any ordinance passed under this power.

Section 97.* To acquire on behalf of and for the use of the city by purchase, gift, devise or condemnation, any private property or any interest therein, whether such property be situated within or without the limits of said city, which may be necessary or proper for the establishment and maintenance of an efficient system of sewers or for the purpose of establishing a water main or electric light plant, and

*Amendment of 1907.

for other proper corporate purposes. Said city is hereby given the right to lay, construct and maintain sewers, water mains and outside electrical constructions, in, under, across or along any public street, highway or public grounds, within or without the corporate limits of said city, and to regulate the manner of connecting therewith.

Section 98. To appropriate private property for the use of the City for streets, alleys, avenues, boulevards, parks, public plazas and squares, sewers, gas works, electric plant, water works, market houses, school houses, or any other public purposes authorized by law, and in such event the council shall declare, by ordinance, the necessity for such appropriation, describing the property sought to be appropriated and stating the name and residence of the owner, if known, and if unknown stating that fact, and shall cause to be filed with the city clerk a plot of the property proposed to be condemned, and such private property shall be condemned for the use of the City for the purposes expressed in the ordinance by the same proceedings and under the same rules, so far as applicable, as are now or may hereafter be provided by the general laws of this State for the condemnation of private property for the use of railroad corporations, or in any other manner or by any other proceedings, authorized by the general laws of this State for the condemnation of private property for public use.

Section 99. To license, regulate and inspect all trades, professions, occupations, callings, and business carried on in said City whenever and wherever the council shall deem such regulation, inspection and license necessary or proper for the good order, public health, public safety or general police regulation of said City, and charge license and inspection fees therefor, and such fees shall not be construed as occupation taxes. *

Section 100. The City Council, in addition to the powers herein enumerated, shall have the power to pass, publish, amend or repeal all ordinances, rules and police regulations not contrary to the Constitution of the State and this Act, and necessary for the order or good government of the City, or the trade, commerce and health thereof, or that may be necessary and proper to carry into effect the powers here vested in the corporation or any part of its officers; to enforce the observance of all ordinances, rules and police regula-

tions, and to punish violations thereof by fines and imprisonment, or either or both, or by work on the streets or other public work, as may be provided by ordinance and required by the judgment of the corporation court; provided, that no fine shall exceed two hundred dollars, and no period of imprisonment shall exceed one hundred days in the city jail. Any person upon whom any fine is imposed may be committed until payment of the same, and in default thereof may be imprisoned in the city prison, or may be required to work on the streets or other public work in the City for such time and in such manner as may be provided by ordinance; provided, such imprisonment shall not exceed one hundred days.

Section. 101. Franchises for the use of the streets and public places of the City may be granted by the affirmative vote of eight aldermen, but no franchise or privilege for the use of any of the public streets or other public places of the City shall ever be granted for any but a strictly public purpose, and any grant of a franchise or privilege hereafter made for the use of any of the public streets or other public places within said City, where, from the nature of the case the use thereof would be private or only colorably public, or chiefly for private purposes, shall be absolutely void. Provided, that no ordinance granting a franchise shall become operative unless ratified by a majority vote of the qualified voters of the City, if within thirty days after the passage of such ordinance a petition signed by a number of qualified voters of not less than ten per cent. of the voters voting at the previous general city election shall be presented to the City Council asking that said ordinance be submitted to a vote of the people. All such elections shall be held in accordance with the general laws governing such elections in said City.

Section 102. No franchise or privilege or extension granted by the City Council of said City shall ever be assigned or transferred by the original grantee or any assignee thereof, without the consent of the City Council, to be given by ordinance, and such consent shall not be given in advance in the ordinance granting the franchise or extension; nor shall such consent be given without specifying by name in the ordinance giving the consent the proposed assignee. Any attempted violation of any of the provisions of this section shall operate a forfeiture of such franchise, nor shall any title pass by

voluntary sale of such franchise without the consent of the City Council so given.

Section 103. No franchise or privilege or extension shall ever be granted by the City Council of said City for a longer term than twenty-five years, and any extension of the right of way covered by any such franchise shall expire with the term of the original franchise and its extensions, and no franchise or privilege or extension hereafter granted by the council and held by any corporation shall extend or remain in force beyond the regular expiration of the charter of the corporation by lapse of time.

Section 104. The grant of any franchise or privilege for the use of public streets, or any extension of the term or right of way covered thereby, shall be upon and subject to the conditions, whether expressed in the grant or not, that upon acceptance thereof by the grantee, the grantee or other holder of such franchise or privilege shall be bound and obligated to exercise such privilege or franchise throughout its entire term and extensions thereof, and throughout the entire right of way covered thereby, and extensions of such right of way, under penalty or forfeiture of the entire franchise.

Section 105. Before any grant of a franchise shall be made the proposed specific grant, embodied in the form of an ordinance with all the terms and conditions, including the provisions as to rates, fares, prices and charges, shall be published at least three times in some newspaper published in said City, to be designated by the Mayor. Such publication shall be made at least twenty days before the final vote on such ordinance, and the ordinance granting the franchise shall be read in full at three regular meetings of the council.

ARTICLE III.

TAXATION AND FINANCE.

Section 106. The City Council shall have power, by ordinance, to annually levy and collect ad valorem taxes as follows: First, for general purposes not exceeding one dollar upon every one hundred dollars valuation; second, for special purposes not exceeding one dollar upon every one hundred dollars valuation; provided, that said tax of one dollar upon every hundred dollars valuation levied for spe-

cial purposes shall include all taxes for the purposes of carrying on the city schools, whether the said taxes for school purposes are levied by the City Council or by any other board having authority to make such levy; and provided, further, that the total tax rate of the City, including taxes for general purposes, special purposes, interest and sinking fund, and schools, shall never exceed two dollars annually on the one hundred dollars valuation of all property assessed, according to the last approved assessment roll of the City, except that the tax levied by any improvement district for improvements therein, as provided in Section 54, may be twenty-five cents annually in addition to the two dollars mentioned above. The advalorem taxes shall be levied and collected annually on the assessed value of all real and personal estate and property in said City, including all choses in action, franchises and privileges having a situs in said City, though the owners thereof be non-residents. Bonds of the United States and State of Texas, and of the City of San Antonio shall not be taxed.

Section 107. The City Council shall have power to annually levy and collect occupation taxes, not exceeding one-half the amount of occupation taxes imposed by the State, upon all occupations, callings and professions subject to such taxes by the laws of the State; and the City Council shall also annually levy and collect a poll tax, not to exceed one dollar, upon every male inhabitant between twenty-one and sixty years of age, not exempt by law, who has resided in said City twelve months previous to the assessment of such tax.

Section 108.* The City Council shall have power to create special funds for special purposes, but shall not have power to transfer money from one fund to another, except that when there is an excess in the general fund over current expenses, such excess or part thereof may be transferred to any of the special funds. The City Treasurer shall not honor any draft upon the fund designed for the payment of the interest upon the public debt and for the creation of a sinking fund for its ultimate payment, except those drafts for such purposes, but said sinking fund may be appropriated at any time to reduce the public debt by the purchase and cancellation of outstanding city bonds, or for the investment of such sinking fund in bonds of the United States, or State of Texas, or of the City of San Antonio, or of any Improvement District thereof, or of Bexar County, Texas, nor

*Amendment of 1907.

shall the City Treasurer honor any draft drawn upon the fund set aside for permanent public improvements, except those drawn in payment for such improvements in pursuance of an ordinance providing for the erection or construction of such permanent public improvements.

Section 109. The City, or any creditor of the City injured by a wrongful diversion or payment of special funds by the treasurer, shall be entitled to maintain in any court of competent jurisdiction an action against the treasurer and sureties upon his official bond for the recovery of damages sustained.

Section 110. The City Council shall have the power, by ordinance, to direct the treasurer to deposit all money of the City in his custody in any bank, banks, or trust company in the City of San Antonio which the council may designate, and the city treasurer shall not be liable or responsible for the loss of any money of the City while so deposited by reason of the failure of such banks or trust company. Such bank, banks, or trust company shall give the City security for the full amount of such deposits and pay to the City not less than three per cent. interest on such deposits. The security to be required for such deposits shall be bonds of the United States, or of the State of Texas, or of the City of San Antonio, or of Bexar County, Texas, and the City Council may provide further regulations and safeguards with regard to such depositories.

Section 111. All salaried officers and employes shall be entitled to warrants for their salaries at the end of every month, unless the term of their employment shall be for an uncertain or shorter period, and the council shall prescribe the manner of issuance of said monthly warrants. All day laborers or other persons performing services for the City for uncertain periods may be paid weekly in such manner as the council may prescribe upon pay rolls duly certified. Provided, that the regular force of the city employes in the service of the City as day laborers shall not be added to or increased at any time within thirty days prior to the date of any State and County or City election.

Section 112. All creditors of the City having audited or established claims against the City shall be entitled to warrants therefor drawn upon the city treasurer which shall be numbered, desig-

nating the fund out of which the same are payable, but such warrants shall not bear interest, and shall be paid in the order of their issuance by months and by numbers, so that no preference shall be shown to any person; but said warrants shall be drawn in the same order as the claims may be audited, approved or established by the action of the council or under its direction or by the judgment of a court of competent jurisdiction.

Section 113. The City shall not recognize transfers or assignments of salaries or wages, nor shall any officer of the City receive or honor any drafts or order drawn by any person against his salary or wages, but the warrant or money shall in every instance be delivered or paid to the person entitled thereto according to the City's accounts; nor shall any officer of the City issue any certificates of indebtedness. Nothing herein contained shall prevent the holder of a warrant from transferring it. Provided, that if the City Council so declares by ordinance, a warrant for the total amount of any pay roll may be drawn in favor of the person paying such pay roll, and such warrant shall have the same legal standing and effect as warrants drawn under Section 52 of this charter.

Section 114. Before the delivery of any warrant by the auditor to the payee thereof, the auditor shall carefully ascertain whether or not such person is in any manner indebted to the City for matured taxes or debts of any kind, and if he shall find that such payee is so indebted to the City, he shall not deliver such warrant unless such person shall then and there actually pay such taxes or debts to the proper receiving officer. If such payee refuses to pay such taxes or debts, the auditor shall refuse delivery of such warrant, and shall make report thereof at the next meeting of the City Council, together with a statement of the nature of the claim asserted by the City against the payee, and in such case the auditor shall await the action of the council before delivering such warrant; provided, however, that this section shall apply only to persons receiving warrants for their compensation and shall not apply to current wages of those persons who are to be paid weekly.

Section 115. City warrants shall not bear interest and shall not be receivable for taxes nor any other debts or demands due the city, but all taxes and dues shall be payable to the City in lawful legal tender money of the United States.

Section 116. All city taxes shall be levied, assessed and collected in the same manner as may be provided by the laws of the State for the levy, assessment and collection of State and county taxes, unless herein otherwise provided. Four aldermen, to be appointed by the Mayor, who with the Mayor, shall perform the duties of a Board of Equalization, and such board shall pass upon all appeals from the decision of the assessor and pass upon all assessments made by the assessor in the same manner as assessments are reviewed by the commissioner's court of the County, and the decision of such board shall be final. The compensation of the Board of Equalization, exclusive of the Mayor, shall be five dollars per day for each member, and the board shall conclude its labors within sixty days from the time of beginning its work upon the assessment rolls. The City Council may, by ordinance, regulate the mode and manner of assessing and collecting city taxes as the City Council may deem proper, although not in accordance with the provisions of the State laws governing the assessment and collection of County taxes, and may provide for the advertisement and sale of property for delinquent taxes in such manner as they may deem proper, and provide for the payment of costs of such advertisement and sale and execution of deeds to be made against the owner of such property. A purchaser of property at a tax sale shall be subrogated to all the rights of the City with reference to the collection of taxes against said property.

Section 117. If the City Council should fail, refuse or neglect to pass an ordinance for any one year, levying the taxes for that year, the ordinance last passed levying taxes will be considered in force, and a failure to pass such an ordinance shall in no wise invalidate the collection of any taxes.

Section 118. The fiscal year of the City shall begin on the first day of June and end on the thirty-first day of May of each year, and all persons and property not exempt by the Constitution and laws of the State shall be subject to city assessment and taxation as of the first day of June of each year in like manner as property is subject to assessment and taxation by the State and County as of the first day of January of each year.

Section 119. All ad valorem and poll taxes for each fiscal year shall become due on the first day of April of such fiscal year, and shall

be paid before the first day of June next following, and from such first day of June shall bear interest at the rate of six per cent. per annum, and the City Council shall not have power to extend the time for the payment of taxes.

Section 120. All persons and property owners failing to pay their annual taxes for any fiscal year before the first day of June next following the levy of the same, shall in addition to interest, be charged a penalty of two per cent. upon the principal amount due for the first month or part of a month of such delinquency, and thereafter in addition to interest a penalty of two per cent. upon the principal amount due for each additional month or fraction thereof of such delinquency; and neither the City Council nor collector shall have power to remit such penalties, interest or any costs due the City; provided, that the aggregate penalties to be charged shall never exceed ten per cent, and shall be charged on the original principal amount only, and such penalties shall not bear interest.

Section 121. The annual assessment made upon property within said City for taxes due said City, shall be a special lien upon said property, and all property, both real and personal, belonging to any delinquent taxpayer, shall be liable to seizure and sale for the payment of all taxes, interest, penalties and costs due said City by such delinquency, and such property may be sold for the payment of taxes, interest, penalties and costs due the City by such delinquent, under such regulations as the Legislature may have provided, or may hereafter provide for the collection of State and County taxes, or as may be provided by the City Council or under a decree of Court.

Section 122. The City may bring suit in any court of competent jurisdiction in any action at common law for the recovery of any taxes due said City, with interest, penalties and costs due thereon, and for the foreclosure of the tax lien upon such property, but this remedy shall be cumulative of all other remedies.

Section 123. All taxes delinquent for ten years before any suit is filed to collect the same shall be barred by limitation; provided, that this section shall not affect judgments already rendered, nor suits pending when this Act takes effect, nor the validity of tax titles hereinbefore made, and provided further, that this section shall not take effect until one year after the passage of this Act.

Section 124.* It shall be the duty of the Auditor immediately after the passage of this Act, to cause a notice to be published for thirty days in one or more of the papers in the City of San Antonio, requesting all parties holding claims, excepting bonds, against the City of San Antonio to immediately file same with the Auditor. At the expiration of said thirty days the City Council shall pass upon such claims as may be filed, together with all other claims that may have been previously filed, and not acted on by the council and by ordinance allow or reject such claim. Within thirty days thereafter the Auditor shall prepare a statement, verified by oath, of the entire unbonded indebtedness of the City of San Antonio so allowed by the Council, or adjudged to be due by final decree of any court of competent jurisdiction, and cause the same to be published for one week in a paper in San Antonio. Thereafter, it shall be the duty of the Auditor within ten days after the first day of each quarter of the fiscal year, to prepare a statement, verified by oath, as follows:

“Balance of unbonded indebtedness of the City of San Antonio, reported on day of 190.....,
 \$, amount of indebtedness incurred during the quarter ending day of 190.....,
 \$, total payments made on account of foregoing indebtedness, during quarter ending day of 190....., \$,
 balance of unbounded indebtedness, \$

The Auditor shall immediately thereafter cause such statement to be published in a paper published in the City of San Antonio. A wilful failure to prepare the statement required by this section shall subject the Auditor to a fine of not less than ten dollars, nor more than one hundred dollars for each day that the publication of said statement is omitted.

Section 125. This Act shall be deemed a public Act, and may be read in evidence without pleading or proof, and judicial notice shall be taken thereof in all courts and places. But no general law hereafter passed by the Legislature of the State of Texas, nor any general law of said State now in force, shall be held to repeal or affect any power herein granted, or which is hereby vested in said

*Amendment of 1907.

City or its City Council, unless by the express terms of such law the same be declared applicable to cities incorporated by special charter.

Section 126. That an Act of the Legislature of the State of Texas, approved August 13, 1870, entitled "An Act to incorporate the City of San Antonio, and grant a new charter to said City," and to repeal an Act entitled "An Act to incorporate the City of San Antonio," approved July 17, 1856, and An Act entitled "An Act to amend the Act to incorporate the City of San Antonio," approved February 11, 1860, and all Acts amendatory of said Act approved August 13, 1870, be and the same are hereby repealed.



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W. L. Carey Jones

CHARTER

OF THE CITY OF

TULSA, OKLAHOMA



Framed by
A Board of Freeholders

Adopted July 3, 1908

Approved by
GOV. C. N. HASKELL

January 5, 1909

Democrat Print,  Tulsa, Oklahoma





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Charter of the City of Tulsa, 1908

Prepared and proposed by a Board of Free-Holders, composed of two members from each of the four wards of the City of Tulsa, State of Oklahoma, elected by the qualified electors of said city, at a special election, held in the said City of Tulsa, on the fourth day of February, 1908, under and pursuant to the provisions of Article 18 of the Constitution, State of Oklahoma.

ARTICLE 1.

INCORPORATION AND TERRITORY.

Section 1. INCORPORATE NAME. All inhabitants of the City of Tulsa, Tulsa County, Oklahoma, as the boundaries and limits of said city are here established, or may be hereafter established, shall be a body politic and incorporate under, and to be known by the name and style of the "City of Tulsa," with such powers, rights and duties as herein provided.

CITY LIMITS.

Section II. BOUNRARIES. All boundaries and limits to the City of Tulsa are hereby established and described as follows:

Beginning at the intersection of the range line between range thirteen (13) and twelve (12) East with boundary line between the Cherokee and Creek Nations. Thence South along said range line to its intersection with the center line running through sections twelve (12) and seven (7), ranges twelve and thirteen (13), township nineteen (19). Thence West along the center line of section twelve (12) to the center of section eleven (11) in range twelve (12), township nineteen (19). Thence North along teh center line of sections eleven (11) and two (2), range twelve (12) township nineteen (19) to its intersection of the boundary line between the Creek and Osage Nations. Thence West along the boundary lines between the Creek and Osage Nations to its intersection with the 96th Meridian. Thence North along the 96th Meridian to the North line of the Brady Heights, an addition to the City of Tulsa. Thence East along the North line of Brady Heights to the center line of Cheyenne avenue. Thence South along the center line of Cheyenne avenue to its intersection with the center line of Haskell avenue, the same being the North line of North Tulsa, an addition to the City of Tulsa. Thence East along the said North line of North Tulsa to its intersection with the center line of Exter Place, the same being the East boundary

line of North Tulsa an addition to the City of Tulsa. Thence South along the said East boundary line of North Tulsa to its intersection with the boundary line between the Creek and Cherokee Nations. Thence East along the said boundary line to the place of beginning:

PLATTING PROPERTY

Sec. III. PLATTING PROPERTY. Should any property lying within the city limits, as established by this charter, be hereafter platted into blocks and lots, then and in that event the owners of said property shall plot and lay the same off to conform with the streets and lots abutting the same, and shall file with the City Engineer a correct map of same; provided, that in no case shall the City of Tulsa be required to pay for any of said streets at whatever date opened, but when opened by reason of the platting of said property at whatever date platted, they shall become by such act the property of the City of Tulsa for use as public highways and may be cared for as such.

ADDITIONAL TERRITORY—HOW ADMITTED.

Sec. IV. ADDITIONAL TERRITORY. Any territory adjoining the present or future boundaries of said city may from time to time, in any size or shape desired, be admitted and become a part thereof on application made or written consent given to the City Commissioners by the owner or owners of the land, or, as the case may be, by a majority of the legal voters residing on the land sought to be added. In all such cases the territory so added shall be described by metes and bounds, in an ordinance accepting, assenting and adding the same to the municipal corporation; and thereafter the inhabitants of the said added territory shall in all respects be on an equal footing with the inhabitants of the original municipal territory.

ARTICLE II.

POWERS OF THE CITY.

Section 1. GENERAL POWERS 1. The City of Tulsa made a body politic and corporate by this charter, shall have perpetual succession, may use a common seal, may sue and be sued, may contract and be contracted with, implead and be impleaded in all courts and places, and in all matters whatever, may take, hold and purchase lands as may be needed for corporate purposes of this city, and may sell any real estate or personal property owned by it; perform and render all public services, and, when deemed expedient, may condemn property for public use, within or without the city; and may hold, manage and control the same; but in every case the city shall make the persons or person whose property shall be taken or injured thereby, adequate compensation therefor, in the manner and method of such condemnation and the method of ascertaining the compensation therefor as is now or shall hereafter be provided by the general laws of the State of Oklahoma.

2. The City of Tulsa shall have power to enact and to enforce ordinances necessary to protect health, life and property and to prevent and summarily abate and remove nuisances, and to preserve and enforce the good government, order and security of the city and the inhabitants of said city, and to enact and enforce any and all ordinances upon any subject; provided that no ordinance shall be enacted inconsistent either with the Constitution or law of the State of Oklahoma, or inconsistent with the provisions of this Charter; and provided further, that the specifications of particular powers herein authorized shall never be construed as a limitation upon the general powers herein granted, it being intended by this Charter to grant to and bestow upon the inhabitants of the City of Tulsa full power of self-government, and it shall have and exercise all powers of municipal government not prohibited to it by this Charter, or by some general law of the State of Oklahoma, or by the provisions of the Constitution of the State of Oklahoma.

3. All real estate owned in fee simple title, or held by lease, sufferance, easement or otherwise; all public buildings, market houses, school buildings, school houses, fire engine stations, public squares, parks, streets alleys, and all property of whatever kind, character and description which has been granted, donated, purchased or otherwise acquired by the City of Tulsa, through any means or agency, and all causes of action, choses in action, rights or privileges of every kind and character, and all property of whatsoever character or description which may have been held, and is now held, controlled or used by the said City of Tulsa for public uses or in trust of the public, shall vest in, and remain in and inure to the said corporation, the City of Tulsa, under this Charter; and all suits and pending actions to which the City of Tulsa heretofore was, or now is, a party, plaintiff or defendant, shall in no wise be affected or terminated by the provisions of this Charter, but shall continue unabated.

REVENUE AND TAXATION.

Section 1. TAXATION. The City of Tulsa shall have power and is hereby authorized annually to levy and collect taxes for general revenue purposes, not exceeding ten mills on the dollar of the assessed value on all real, mixed and personal property in the city, not exempt from taxation by the Constitution and laws of the State; provided, that for the purpose of erecting public buildings in the City of Tulsa, the rate of taxation herein limited may be increased, when the rate of such increase and the purpose for which it is intended shall have been submitted to a vote of the people and the majority of the qualified voters of such city voting at such election shall vote therefor, provided, that such increase shall not exceed five mills on the dollar of the assessed valuation of the taxable property in the city.

2. The City of Tulsa shall not be allowed to be indebted in any manner or for any purpose to an amount exceeding in any one year the income and revenue provided for such year, without the assent of three-fifths of the voters thereof, voting at an election to be held for that purpose, nor in cases requiring such assent, shall any indebtedness be al-

lowed to be incurred to an amount, including existing indebtedness in the aggregate, exceeding five per centum of the valuation of the taxable property therein, to be ascertained from the last assessment for State and County purposes, previous to the incurring of such indebtedness requiring the assent of the voters as aforesaid it shall have the power to provide for, and before, or at the time of incurring such indebtedness it shall provide for the collection of an annual tax in addition to the other taxes provided for by this Charter sufficient to pay the interest on such indebtedness as it falls due and also to constitute a sinking fund for the payment of the principal thereof within twenty-five years from the time of contracting the same.

4. The City of Tulsa shall levy sufficient additional revenue to create a sinking fund to be used, first, for the payment of interest coupons as they fall due, second, for the payment of bonds as they fall due, third, for the payment of such parts of judgments as such city may, by law, be required to pay.

5. The City of Tulsa shall have power to levy and annually collect a poll tax not exceeding two dollars on all able-bodied males between the ages of twenty-one and sixty years; when such tax is authorized the City Auditor shall make and certify a list of those liable to pay the same and deliver such list to the Commissioner of Finance and Revenue to be placed on the tax roll.

POLICE DEPARTMENT.

Section 3. POLICE POWERS. 1. The City of Tulsa shall have power, by ordinance duly passed:

To establish and maintain a City Police Department, prescribe the duties of policemen and regulate their conduct.

2. To permit, forbid or regulate theatres, balls, dance houses and other public amusements, and to suppress the same whenever the preservation of order, tranquillity, public safety or good morals may demand.

3. To prohibit dram shops, drinking saloons and other places where intoxicating liquors are sold, and to close variety theatres when necessary, expedient or advisable.

4. To prohibit and punish keepers and inmates of bawdy houses and variety shows; to prevent and suppress assignation houses and houses of ill fame, and to regulate, colonize and segregate the same, to determine such inmates and keepers to be vagrants, and provide for the punishment of such persons, and to prevent all desecration of the Sabbath, commonly called Sunday, and to prevent all kinds of public indecencies.

5. To inspect weights and measures, fix standards of weights and measures, and to fix penalties for not using or conforming to the same, and to provide that inspection fees may be fixed by ordinance.

6. To make all needful and proper regulations concerning keepers of hotels, taverns, and other public houses, draymen, horse drivers, water carriers, omnibus drivers, hack drivers and drivers of baggage wagons, and other vehicles; to establish maximum rates for all kinds of transportation within the city limits, to prevent extortion and to

preserve order and prevent noise and confusion in and about the several depots on the arrival and departure of railway trains, and to provide how and where hacks or other vehicles shall stand or take their position upon the streets adjacent or near the said depots, and where they shall stand when not receiving or discharging passengers.

7. To suppress gambling houses and to punish keepers of gambling houses and pool sellers, and all persons who play cards or games of chance of any kind, and to punish persons who sell lottery tickets or who advertise lottery drawings or schemes and results of drawing of lotteries.

8. To provide for the regulation of bakers and to prescribe the weight, quality and price of bread manufactured or sold in the City of Tulsa, according to the price of the material or otherwise, and to provide for the inspection of milch cows, whether kept within the city or without the city limits, from which milk is sold within the city, and to provide for the inspection of the milk offered for sale, and to prescribe the fees to be charged therefor.

9. To establish and regulate public grounds, and to regulate and restrain and prohibit the running at large of horses, mules, cattle, sheep, swine, goats, chickens geese and pigeons and to authorize the distraining, impounding and sale of the same for the cost of the proceedings and the penalty incurred and to order their destruction when they cannot be sold, and to impose penalties upon the owners thereof for the violation of any ordinances regulating or prohibiting the same.

10. To tax, regulate, restrain and prohibit the running at large of dogs, and to authorize their destruction when at large contrary to ordinances, and to impose penalties upon the owners and keepers thereof.

11. To prohibit and restrain or regulate the rolling of hoops, the flying of kites and firing of firecrackers, the use of velocipedes, roller skates and bicycles, sling-shots, and the use of any pyrotechnic or any other amusement or practices tending to annoy persons passing upon the streets or sidewalks, or to frighten horses and teams.

12. To restrain and prohibit the ringing of bells or blowing of horns, bugles and whistles, crying of goods, and all other noises, practices and performances tending to the collection of persons in the streets or sidewalks, by auctioneers and others for the purpose of business, amusements or otherwise.

13. To prohibit mendicants, beggars or persons of infirm or maimed bodies, or suffering with diseases of any kind, from soliciting alms, help or assistance upon the streets or sidewalks of said city, and to prescribe a penalty by fine for a non-observance thereof.

14. To prohibit and regulate the ringing of bells and blowing of whistles of railroad engines or locomotives within the city limits, and to regulate and control the speed thereof.

15. To regulate and control the driving of cattle, horses and all other animals into or through the city.

16. To prevent all trespasses and breaches of the peace and good order, assault and batteries, fighting, quarreling, using abusive, profane

and insulting language, misdemeanors and all disorderly conduct and to punish all persons thus offending.

17. To require, on due notice, all steam or street railway companies owning tracks within the city limits, upon the public streets or highways of said city, which may have been or may hereafter be abandoned by said companies by non-use, to remove such tracks and to restore at their own expense the street or way upon which such abandoned track is located to its former condition.

18. To prohibit, prevent and suppress horse racing, immoderate riding and driving in the streets of said city.

19. To prohibit cruel treatment of animals and to punish the abusers of animals.

20. To compel persons to fasten their horses or other animals attached to vehicles or otherwise hitched, or standing in the streets.

21. To restrain and punish vagrants, mendicants, beggars and prostitutes.

22. to regulate and control the sale, gift, barter or exchange of cocaine, opium, morphine and salts thereof.

23. To license, tax and regulate auctioneers, clairvoyants, contractors, druggists, hawkers, peddlers, palmists, bankers, brokers, pawnbrokers, merchants of all kinds, grocers, confectioners, restaurants, butchers, taverns, public boarding houses, billiard tables and other gaming tables, bowling alleys, drays, hacks, carriages, omnibuses, cars, wagons and other vehicles used in the city for pay, hay scales, lumber dealers, undertakers, furniture dealers, saddlery or harness dealers, stationers, jewelers, livery stable keepers, real estate agents, express companies or agencies, telegraph companies or agencies, life or fire insurance companies or agencies, shows, theaters, all kinds of exhibitions of every kind. To license and regulate any itinerant or transient vendor of clothing or wearing apparel or article of bedding or merchandise of any description whatever, ticket brokers, or scalpers, or dealers in railway tickets, dealers in bankrupt or fire stock, or damaged stocks of any kind, second-hand dealers, pawn brokers, junk shops and dealers in junk, and all other business or occupations whatever, which in the opinion of the Board of Commissioners shall be property subject to police regulation. To require the person or persons or corporations pursuing any business or occupation mentioned in this section, to give all bonds in such amounts and under such condition as the Board of Commissioners may prescribe; no license shall be assignable, except by the permission of the Board of Commissioners.

24. To license, tax, regulate, prevent or suppress paupers, peddlers, pawnbrokers, and keepers of theatrical or other exhibitions, shows and amusements. To license, tax and regulate or prohibit theatres, circuses, moving picture shows, and exhibitions of common showmen, and of shows of any kind, and the exhibition of natural or artificial curiosities, menageries and musical exhibitions and performances and to regulate and license or prohibit street parades, bill posters, pool tables, striking

machines, lung testers, doll racks, cane racks and exhibitions, devices and things for which a fee is charged.

25. To prevent all prize fights, boxing matches, sparring exhibitions, cock fighting and dog fighting, and punish all persons thus offending.

26. To regulate, control and prohibit the carrying of firearms, and other weapons within the city limits, and to provide and inflict the same punishment therefor, as is now or hereafter may be provided by state laws against persons unlawfully carrying weapons.

27. To provide workhouses for vagabonds and disorderly persons, who are unable, or refuse to pay fines, or who have been sentenced to fine and imprisonment, or to compel them to work on the streets, alleys and public works, and make all necessary regulation concerning the same, and to provide, keep and regulate a city prison.

28. To define what shall be nuisances in the city, and within one thousand feet of the corporation line outside of the city limits, and to abate such nuisances by summary proceedings and to punish the authors thereof by penalties, fines and imprisonments.

29. To prevent dangerous construction and condition of chimneys, fireplaces, hearths, stoves, stovepipes, boilers and other heating apparatus and cause the same to be removed or made safe.

30. To regulate the use of automobiles, motor cars, motor cycles, or any motor vehicle and the speed thereof; to prescribe the proper lighting of same when used at night; to issue permits for the use of such vehicles and to require the numbering of said vehicles.

31. To control and regulate the location and use of all kinds of steam engines and steam boilers in the city and prescribe the qualifications of persons operating and running the same, and to adopt such rules and regulations in relation thereto as may seem best for the public safety and comfort.

32. To inspect the construction of all building in the city and to prescribe and enforce proper regulations in regard thereto; to regulate and locate or prohibit the erection of all poles in the city, and cause the same to be changed whether telegraph, telephone, electric light or otherwise.

33. The city shall have power to establish, maintain and regulate a city prison, workhouse and other means of punishment, for vagrancy, city convicts and disorderly persons, houses of correction and reformatories for youthful criminals.

34. The City of Tulsa shall have the power to regulate levees, depots, depot grounds and places of storing freight and goods, and provide for the passage of railways through the streets and public grounds of the city; also to regulate the crossing of streets by railway tracks, and require gates or flagmen at street crossings, and to provide precautions and prescribe rules regulating the same and to regulate the running of railway engines, cars and trucks and street cars within the limits of said city, and to prescribe rules relating thereto, and to govern the speed thereof, and to make any other and further provisions, rules and restric-

tions to prevent accidents at crossings and on the tracks of railways and street railways and to prevent fires from engines.

35. To regulate, locate and prohibit the stringing or placing of telegraph, telephone, electric or other wires and to enforce such regulation in regard thereto and to require and regulate the placing of any such telegraph, telephone, electric or other wires under ground.

36. To regulate or prohibit the keeping of cows, hogs, goats, dogs, chickens, gees or pigeons within the city or within certain prescribed limits of the city.

FIRE DEPARTMENT.

Section 4. FIRES. The City of Tulsa shall have power:

1. To provide means for the protection against and the extinguishment of fires, and shall provide for the regulation, maintenance and support of a Fire Department, and for the purpose of guarding against the calamity of fire, may prescribe fire limits, and may regulate or prohibit the erection, building, placing or repairing of wooden buildings within such fire limits in said city as may be designated and prescribed as fire limits, and may also within said limits prohibit the moving or putting up of any wooden buildings from one place to another within said limits, and may direct and prescribe that all buildings within the limits so designated in the ordinance as fire limits, shall be made or constructed of fireproof material, the kind, character, extent and quality of which buildings and material may, by ordinance, be prescribed and fixed, and may prohibit the repairing of wooden buildings in fire limits when the same shall have been damaged to the extent of thirty-three and one-third per cent of the value thereof, and may prescribe the manner of ascertaining such damages, and may declare all dilapidated buildings to be a nuisance, and direct the same to be removed or abated in such manner as the Board of Commissioners may prescribe, and may declare all wooden buildings in the fire limits, which they deem dangerous to contiguous buildings, or which may cause or promote fires, to be nuisances, and may require and cause the same to be removed in such manner as may be prescribed, at the expense of the owner, and may further prescribe limits within which only a fireproof roofing may be used, and may impose a penalty for violation of such rules and regulations. The city shall have the right, by ordinance, to regulate, prescribe and govern the storage of lumber, sash, doors, blinds, nitroglycerine, dynamite, powder and any and all commodities of an inflammable, combustible or explosive nature and any and all kinds of goods, wares and merchandise of every kind, and prescribe limits within which such materials may be carried, and fix penalties for violation of the rules and ordinances governing the same.

2. To procure fire engines, hooks, ladders, buckets and other apparatus, and organize fire engine, hook and ladder and bucket companies, and prescribe rules of duty for the government thereof, with such penalties as they may deem proper, and make all necessary appropriations therefor.

3. To regulate or prevent the carrying on of manufactories and

her works dangerous in causing fires, and to regulate the location of cotton presses, sheds and other buildings dangerous on account of fires.

4. To prevent the deposit of ashes in unsafe places and cause the removal from one's premises of all trash, old papers, straw, goods boxes, barrels and anything else dangerous on account of fire, and all filth, slops and animal or vegetable matter and everything else offensive and dangerous to health and comfort, and to cause all buildings and enclosures in a dangerous state to be put in a safe condition.

5. To regulate the size, number and construction of doors and stairways of theatres, tenement houses, hotels, boarding houses, apartment houses, audience rooms, public halls, school houses and buildings used for the gathering of a large number of people, whether now built or hereafter to be built, so that there may be convenient, safe and speedy exit in case of fires.

6. To require the construction of suitable fire escapes on or in hotels, lodging houses, factories and school and other buildings, whether now built or hereafter to be built.

7. To compel the owners or occupants of houses or other buildings to have scuttles in their roofs and stairs and ladders leading to the same.

8. To authorize one or more officers, agents or employes of the city to enter in and upon all buildings and premises to examine and discover whether the same are dangerous, on account of fire, or in any unclean state, and cause all defects to be remedied, and filth and trash to be removed, and generally the Board of Commissioners shall have power to establish such regulations for the prevention and extinguishment of fires as it may deem expedient.

HEALTH, SANITATION, CEMETERY.

Section 5. HEALTH. The City of Tulsa shall have power:

1. To regulate burial grounds, crematories and cemeteries, and to prohibit burial within the city limits if deemed advisable, or, if necessary to protect the public health, and to condemn and close burial grounds and cemeteries in the thickly settled portions of the city, and when demanded by the public interest or public health to remove or cause to be removed bodies interred in such condemned and closed cemeteries and burial grounds, and shall cause them to be reinterred in a suitable place to be provided by the city, at its expense, and whenever advisable the city may condemn the land proposed to be used for the re-interring of bodies in the same manner as provided in Section 1, Article 2, of this Charter, and use such condemned ground formerly used for cemeteries for such purposes as may best subserve the interests of the city.

The City of Tulsa shall have power to purchase, hold and pay for lands not exceeding one hundred and sixty acres in one body, outside the limits of such city, for the purpose of the burial of the dead. The Board of Commissioners shall provide for the survey, platting, grading, fencing, ornamenting and improving all the burial and cemetery grounds and the avenues leading thereto, owned by such city, and may construct

walks in rear and protect ornamental trees therein and provide for paying the expenses thereof.

To convey by certificates, signed by the Mayor and countersigned by the City Auditor, under the seal of the city, cemetery lots, owned by such city, specifying that the purchaser, to whom the same is issued, is the owner of the lot or lots described therein by number, as laid down on such map or plat, for the purpose of interment, and such certificates shall vest in the purchaser, his or her heirs and assigns, a right, in fee simple, to such lot for the sole purpose of interment under the regulations of the Board of Commissioners, and such certificate shall be entitled to be recorded in the office of the register of deeds of the proper county without further acknowledgment; and such description of lots shall be deemed and recognized as sufficient description thereof. The Board may limit the number of lots which shall be owned by the same person, at the same time; may prescribe rules for enclosing, adorning, and erecting monuments and tombstones on cemetery lots, and may prohibit any division of the use of said lots and any improper adornment thereof; but no religious test shall be made as to the ownership of the lots, the burial therein, or the ornamentation of the graves, or of such lots.

To pass rules and ordinances, impose penalties and fines, not exceeding one hundred dollars, regulating, protecting and governing the cemetery, the owners of lots therein, visitors thereof, and punishing trespassers therein; and the officers of such city shall have as full jurisdiction and power in the enforcing of such rules and ordinances as though they related to the city itself.

2. To regulate the burying of the dead, the registration of births and deaths, direct the keeping and returning of bills of mortality, and impose penalties on physicians, undertakers, sextons and others for any default in the premises.

3. The City of Tulsa also shall have the power, by ordinance, to authorize the destroying of clothing, bedding, furniture, and buildings infected with the germs of any infections or dangerous disease when the public health requires the destruction of the same, and may also in the same manner authorize the destruction or removal of buildings or other objects after the same shall have been declared a nuisance and to be dangerous to the health or lives of the citizens of said city.

4. To make regulations to prevent the introduction of contagious diseases into the city, to make quarantine laws for that purpose, and to enforce them within the city and within five miles thereof.

5. The City of Tulsa is hereby given full power and authority to take such steps to improve and preserve the purity of the water of the Arkansas river above the City of Tulsa, as it may think necessary; provided, that the power in this section shall not be construed to give said corporation any jurisdiction or control over said river beyond the corporate limits of said city, except for the purpose of protecting and improving the water shed, i. e., the water supply of both the Arkansas river and the smaller streams or tributaries; provided further, that the said corporation shall have the right to condemn land buildings and outhouses or closets when it may deem the same necessary

for the protection and preservation of the purity of the water in said river, and shall have power to control the same.

The City of Tulsa shall also have power to require any persons or corporations owning or operating manufacturing enterprises within or without the city which shall discharge refuse matter into Arkansas river or its tributaries, to make other provisions for such refuse matter or so purify the same so that the public health will be fully protected.

6. To require the owners of private drains, sinks and privies, to fill up, cleanse, drain, alter, relay, repair, fix and improve the same as they may be ordered by resolution or ordinance, and impose penalties upon persons failing to do the same. If there be no person in the city upon whom such order can be served, the city may have such work done, and costs of the same shall be a lien on the property and taxed up against it, and collected in such manner as the Board of Commissioners may determine.

7. To prevent any person from bringing, depositing or burying within the city limits, the carcasses of any dead animal, or other unwholesome substance, or matter, or filth of any kind, and to require prompt removal of the same, and impose all necessary penalties for the enforcement of such powers.

8. To provide for the inspection of dairies inside and outside the city limits, doing business within the city, and to charge and provide license fees for inspection; to establish and maintain a standard of sanitary conditions governing dairies inside and outside the city, doing business within the city; to establish and maintain a standard of quality of all dairy products sold in the city, and to provide for penalties for the violation thereof.

9. To regulate and license butchers and prevent their slaughtering animals in the city limits, and revoking their license for misconduct in trade, and to regulate, license and restrain the sale of fresh meat, fruits and vegetables, and the slaughter of animals and to license and regulate or prohibit slaughter houses within the city limits.

10. To compel the owner or occupant of any grocery, soap, tallow or chandler establishment or blacksmith shop, tannery, stable, slaughter house, distillery, brewery, or other building, or sewer, privy, hide house, or other unwholesome or nauseous place or house to cleanse remove, fill up, repair or abate the same, as may be necessary for the health, comfort and convenience of the inhabitants.

11. To regulate the inspection and slaughter of animals and the sale of fresh meats within the city, and the inspection and the sale of flour, meal, fish, salt and other provisions, and all other articles of food or drink whatsoever, to be consumed within the city, and to appoint inspectors, weighers and gaugers, and prescribe their duties and powers, and to regulate their fees, and to provide for the inspection and weighing of hay and coal, ice, and the measurement of coal, gas and other fuel to be sold in the city.

12. To regulate, restrain, locate, abate or prohibit slaughter houses, gas reservoirs and tanks, glue factories bone boilers, hide houses or establishments for burning hides, soap factories, places for rendering lard,

tallow, offal and other substances that can be rendered, and all other establishments where any nauseating, dangerous, offensive or unwholesome business may be carried on.

13.—The City of Tulsa shall have the right and power, by ordinance, to provide that the tenant or owner of any property shall pay to the city reasonable charges for the removal of night soil or other refuse matter from the closets of the premises thereof, and to prohibit any one except some one in the employ of the city, or by the city authorized to do so, from removing or carrying away the contents of any privy, vault or water closet, or any receptacle of human excrement, and the city shall have the right to have inspected the premises of all persons, at any time, in the interests of the public health, and for the purpose of making said inspection, the officers or agents of the city, duly authorized to do so, shall have a right to enter upon the premises of any person at any hour during the daytime to make said inspection. Whenever notice is given by any officer or employe of the city inspecting any premises that said premises need cleaning, the said night soil or other refuse matter shall be removed and the owner or tenant of said premises shall pay the city the price prescribed therefor, and failure to do so shall subject said person to the penalties to be prescribed by ordinance, and said persons shall be fined, upon conviction in the Police Court, in any sum not less than one dollar nor more than one hundred dollars.

14. The City of Tulsa shall have jurisdiction over all places within five miles of the corporate limits of the city, for the enforcement of all health, quarantine or water works ordinances and regulation thereof.

15. The Board of Commissioners are hereby authorized and required to create a Board of Health for the city, whose duties and jurisdiction shall be determined and prescribed by the said Board of Commissioners; said Board of Health to consist of not more than five reputable physicians of the City of Tulsa, to be appointed by the Mayor and confirmed by the Board of Commissioners.

16. The Board of Commissioners shall appoint a Commission of Charities, not exceeding three members, and prescribe by ordinance their duties.

Section 6. MUNICIPAL SERVICE. The City of Tulsa shall have power:

1. To buy or construct, own, maintain and operate a system or systems of waterworks, gas or electric lighting plants, telephone, street cars and sewers, or any other public service or enterprise that may be approved by a majority of the qualified voters of the City of Tulsa, voting therefor, at any regular election for city officers, or at a special election called for that purpose, in accordance with the provisions of the Charter; and may demand and receive compensation for such service furnished for private purposes, and shall have power to condemn the property of any person, firm, or corporation, for the purpose of operating and maintaining any such utility, and for distributing such service throughout the city or any portion thereof, but in such condemnation proceedings no allowance shall be made for the value of any franchise and only the actual physical assets shall be purchased by the City of Tulsa.

2. To acquire or own within or without the city limits either by purchase, donation, bequest or otherwise, all property it may need for any municipal purpose, whatever; and all necessary right of ways thereto, and shall also have the power to sell and dispose of the same, except as otherwise provided in this charter.

3. To provide all needful buildings for the use of the city; to provide for enclosing, improving, ornamenting and regulating all public grounds belonging to the city; to provide hospitals and regulate and maintain the same, and to permit or prohibit private hospitals; and to establish an active system of inspection over premises and conduct of persons.

To purchase or condemn and hold for the city, within, or outside of the city limits within five miles therefrom, all necessary lands for hospital purposes and waterworks and erect, establish and regulate the hospitals, workhouses and poorhouses, and provide for the government and support of the same, and make regulations to secure the general health of the city, and to prevent and remove nuisances, and to make provisions for furnishing the city with water; and water rates shall be fixed annually by the council at their first meeting in June; provided, the condemnation of such property outside of the city limits shall be regulated in all respects as provided by law for the condemnation of property for railroad purposes; and provided, further, that the police jurisdiction of the city shall extend over such lands and property to same extent as over public cemeteries.

4. To lay out, establish, open, alter, widen, lower, raise, extend, grade, narrow, care for, pave, supervise, maintain and improve streets, alleys, sidewalks, squares, parks public places and bridges and to vacate and close the same; to sprinkle, sweep and care for the streets and regulate the use thereof; and to require the removal from the streets and sidewalks of all obstructions, telegraph, telephone, street railway or other poles carrying electric wires, signs, fruit stands, show cases, awnings, and encroachments of every character upon said streets and sidewalks; and to vacate and close private ways.

The cost of constructing sidewalks and keeping the same in repair, together with the cost of collection, shall be defrayed entirely by the property owners in such manner as the Board of Commissioners may provide, and shall be a perpetual lien on the property until paid.

5. To prevent any street or sidewalk from being dug up or excavations to be made therein, unless the same be done with the permission of the Board of Commissioners and under the direction of the City Engineer, or other officer designated by the Board of Commissioners, and to prescribe and exact fees for such privileges and deposit as guarantees of proper restoration of such streets or sidewalks.

6. To regulate, establish and charge the grade of all sidewalks, streets and premises and to require and compel the filling up and raising the same.

7. To permit, prevent and regulate the laying of gas, water and sewer mains and pipes in the City of Tulsa; to compel any person using

the streets, alleys or sidewalks for building or other purposes to repair, clean up and restore said streets, sidewalks and alleys so used.

8. To provide for, establish and maintain a free public library within the city, and to co-operate with any person, firm or corporation under such terms as the Board of Commissioners may prescribe for the establishment of such free library, and to that end they shall appropriate annually out of the general revenue of the city a fund for the support and maintenance of said Public Library.

9. To buy, establish, lease, maintain, regulate and operate markets and market places, and abattoirs, and to build, own and maintain buildings therefor, and to rent and lease the same.

10. To establish and maintain sanitary closets for for the service of the public, and to obtain by purchase or condemnation property for such closets.

11. The City shall have power to open, widen, extend or otherwise improve any street, avenue, alley; and to annul vacate or to discontinue the same or to grant to any other public use when deemed necessary or expedient; to provide that all damages sustained by citizens of the city or owners of property therein shall be ascertained by condemnation proceedings, such proceedings shall be had in all respects as provided by law for the condemnation of property for municipal purposes in cities of the first class, and provided further, that whenever any street, avenue or alley shall be vacated the same shall revert to the owners of real estate thereto adjacent on each side in proportion to the frontage of said real estate except in cases when such streets, avenues or alleys shall have been taken and appropriated to public use in a different proportion, in which case it shall revert to adjacent lots of real estate in proportion as it was taken from them, provided, that when in the opinion of the Board of Commissioners of the city, that it is necessary to re-open such alleys that they may order such alley opened without any expense to the city.

12. The City shall have power to prohibit and prevent all encroachment into and upon the sidewalks, streets, avenues, alleys and other property of the city, and may provide for the removal of all obstructions from the sidewalks, curbstones, gutters and cross walks at the expense of the owners or occupiers of the grounds fronting thereon, or at the expense of the person placing the same there; the city may also regulate the planting and protection of shade trees in streets and the building of bulk heads, cellar and basement ways, stairways, railposts, awning posts, and all other structures projecting upon or over and adjoining, and all excavation through and under the sidewalks or along the streets of the city.

13. The City shall have power to establish, alter and change the channel of water courses and wall them and cover them over; and may establish make and regulate public wells, cisterns, equeducts and reservoirs of water, and provide for the filling of same.

14. The City shall have power to provide for and regulate the lighting of the streets and erecting of lamp posts and shall have power to make contracts with and authorize any person, company or associa-

tion to erect gas or electric works in such city and give such person, company or association the privilege of furnishing gas or electricity to light the streets and alleys of said city for any length of time not exceeding twenty five years but no such grant shall be construed as to prevent the city from granting to other persons, or companies, or corporations the right to use the streets for like purposes; and all such grants shall be subject, at all times to reasonable regulation, by ordinance.

15. To fix the salary of any officer of the city, not fixed by this charter; to create such other offices as may be required from time to time and to abolish said offices and to fix the salary of the same.

Section 7. FRANCHISES. 1. The ownership, right of control and use of the streets, highways, alleys, parks, public places and all other real property of the City of Tulsa, is hereby declared to be inalienable to said city, except by ordinance passed by vote of the majority of the Board of Commissioners, as hereinafter provided; and no franchise or easement involving the right to use the same, either along, across, over or under the same, shall ever be valid, unless expressly granted and exercised in compliance with the terms hereof, and of the ordinance granting the same. No act of omission of the city, its Board of Commissioners, officers or agents shall be construed to confer or extend by estopped or indirection, any right, franchise, or easement, not expressly granted by ordinance.

2. The City of Tulsa shall have power subject to the terms and provisions hereof, by ordinance to confer upon any person or corporation the franchise or right, to use the property of the city, as defined in the preceeding section, for the purpose of furnishing to the public any general public service, including heat, light, power, telephone service, refrigeration, steam, or the carriage of passengers or freight within the said city, or for any other purpose whereby a general service is to be furnished to the public for compensation or hire, to be paid to the franchise holder, whereby a right to, in part, appropriate the streets, highways or other property of the city, is necessary or proper, provided that no franchise shall be granted by said city to any person, firm or corporation, to own, control or operate waterworks therein when the city shall acquire the present water works system, or shall construct a plant of its own.

3. No exclusive franchise or privilege shall ever be granted, nor a franchise, nor a privilege to commence at any time after six months subsequent to the passage of the ordinance granting the same and no franchise shall be directly or indirectly extended beyond the term originally fixed by the ordinance granting the same, nor shall any franchise be granted to any person or persons or corporation, authorizing such person or corporation, their associates, assigns or sucyessors to acquire the physical property, rights or franchises of another person or corporation to whom or which a franchise has already been granted by the city whereby the rights and properties held and used under such franchise are assigned to another person, firm or corporation which holds a franchise extending beyond the

time of the expiration of the franchise of the person, firm or corporation selling such physical properties, rights or franchises.

4. The City of Tulsa shall have the power by ordinance to grant any franchise or right mentioned in the preceding sections hereto; provided that the city shall not grant, extend or renew a franchise without the approval of a majority of the qualified voters residing within its corporate limits who shall vote thereon at a special or general election; and the legislative body of the city may submit any such matter for approval or disapproval to such electors at any general municipal election or call a special election for such purpose upon thirty days notice and no franchise shall be granted, extended or renewed for a longer period than twenty-five years.

Whenever a petition signed by a number of qualified voters of the city, equal to twenty-five per centum of the total number of votes cast at the next preceding general municipal election, demanding that a franchise be granted, extended or renewed, shall be filed with the chief executive officer of the city, the chief executive officer shall, within ten days, thereafter call a special election, at which he shall submit the question of whether or not such franchise shall be granted, extended or renewed and if at such election the majority of the said voters voting thereon shall vote for the granting, extending or renewing of such franchise the same shall be granted by the proper authority at the next succeeding regular meeting of the legislative body of the city.

5. All persons or corporations to whom franchises may hereafter be granted, or their assigns and successors, shall as compensation for the right or privilege enjoyed pay to the city a sum not less than four per cent, of the gross receipts of the business pursued by the holders of the franchise. The amount of said bonus or compensation shall be fixed by ordinance granting the franchise and shall be payable on the second day of January in each year, for the preceding year. Said bonus or compensation shall be exclusive of and in addition to all lawful ad valorem taxes upon the value of the franchise or other property of the holder thereof, and lawful occupation taxes imposed upon the occupation or calling the holder of such franchise. The Board of Commissioners may, however, in their discretion in the order granting any franchise, provide, that no bonus shall be paid for the first five years thereof.

In order to ascertain the true amount of such gross receipts and to determine the amount of such bonus or compensation and for any other purpose relating to the business or affairs of the city the Board of Commissioners shall have power to examine or cause to be examined the books, papers, and records of franchise holders; to take testimony and compel the attendance of witnesses under oath and under such rules and regulations as said Board of Commissioners may adopt, and should any franchise holder refuse inspection of its books, papers or records or the production of the same when lawfully required to do so by the said Board of Commissioners, or should any officer, agent, or employe of said franchise

holder refuse to give testimony before said Board of Commissioners, then said Board of Commissioners shall have power, by ordinance, to declare the franchise or privilege enjoyed by such corporation, or person so in default, annulled and terminated.

4. The right is hereby delegated to the City of Tulsa acting through its Board of Commissioners to determine, fix and regulate the charges, fares or rates of any person, firm or corporation enjoying or that may enjoy a franchise or exercising any other public privilege in said city and to prescribe the kind of service to be furnished by such person, firm or corporation, and the manner in which it shall be rendered, and from time to time to alter or change such rules, regulations and compensation. The Board of Commissioners shall make rules and regulations granting a fair hearing to persons or corporations to be affected by said regulations, and no change in regulations shall be adopted except after notice to the persons affected and after a fair hearing shall be granted them; provided, that in adopting such regulations and in fixing or changing such compensation or determining the reasonableness thereof, no stock or bonds authorized or issued by any corporation enjoying a franchise shall be considered unless upon proof that the same have been actually issued by the corporation for money paid and used for the development of the corporate property, labor done or property actually received in accordance with the laws and Constitution of the State applicable thereto; and in order to ascertain all facts necessary for a proper understanding of what is or should be a reasonable rate or regulation, the Board of Commissioners shall have full power to inspect books and compel attendance of witnesses as provided in subsection five for a failure or refusal to attend and testify or produce books.

8. No franchise shall hereafter be granted except upon condition that the city shall have the right at any time after fifteen years from the granting thereof to purchase the physical properties of the franchise holder and to terminate its franchise, and all privileges enjoyed by it thereunder; provided, the majority of the qualified tax paying voters of the city voting, thereon shall vote to do so; and provided, that upon the petition of twenty-five per centum of the qualified tax paying voters to the Board of Commissioners the matter of the acquisition of such property shall be submitted to an election to be determined by a vote of the majority of the qualified tax paying voters voting thereon; which election shall be held at the next preceeding election in said city, after at least twenty days notice shall have been published daily for twenty days in a newspaper published in said city and provided, that the owner of such physical property shall be compensated for the value thereof, considering solely the physical assets, such value to be determined by the report of the majority of three arbitrators, one to be selected by the city, one by the owner of the physical property to be valued, and the third by the arbitrators so selected. But if the owner of such physical property shall refuse for thirty days to select an arbitrator, then the value of such property shall be fixed by vote of the majority of the Board of Commissioners.

9. Ordinances granting franchises shall be subject to the terms hereof, and shall contain such terms and conditions as the Board of Commissioners shall see fit to impose. All franchises shall be exercised in accordance with the terms of the ordinance granting the same and of this charter. If such franchise shall not be exercised in substantial accordance with the terms hereof, and of the ordinance granting the same, then after notice to and reasonable hearing of the holders thereof, such franchise may be cancelled or annulled and the Board of Commissioners shall, by ordinance, adopt reasonable rules and regulations for such notice and hearing.

10. Any franchise or right which may hereafter be granted by any person or corporation to operate a street railway within the city or its suburbs shall be subject to the condition that the Board of Commissioners shall have the right to grant to any other person or corporation desiring to build or operate a street railway or interurban railway within or into the City of Tulsa, the right to operate its cars over the tracks of said street railway in so far as may be necessary to enter said city and to reach the section thereof used for business purposes; provided that the person or corporation desiring to operate its cars over the lines of said street railway shall first agree in writing with the owner thereof to pay it reasonable compensation for the use of its tracks and facilities. And if the person or corporation desiring to use the same cannot agree with said owner of said street railway as to said compensation within sixty days from offering in writing to do so, and as to terms and conditions of the use of said track and facilities, the Board of Commissioners shall by resolution, after a fair hearing to the parties concerned, fix the terms and conditions of such use and compensation to be paid therefor, which award of the board, when so made, shall be binding on and be observed by the parties concerned.

11. Interurban railways are defined to be in the meaning of this charter, railways operating their cars by electricity or other motive power, for the carriage of freight and passengers for hire, not wholly within the city and its suburbs to other towns, cities or villages.

12. The Board of Commissioners shall have power, subject to the terms and conditions contained in this charter, to grant to any person or corporation desiring to extend an interurban railway into the city, the right to lay tracks and operate cars over the streets or other property of the city and over the tracks of other street railways for a term not exceeding twenty-five years.

13. The right mentioned in the preceeding section shall be granted by ordinance only. The granting or refusing of the right or franchise herein mentioned shall be subject to the terms and provisions of this charter concerning the submission of general franchises to a vote of the qualified voters of the city, which shall in all things govern and apply thereto.

14. The ordinance granting such right or franchise, shall contain such conditions as may seem proper to the Board of Commissioners and shall provide for such reasonable compensation to the city as may seem just to the board for the use of the franchise or right granted,

which compensation shall be payable annually. And the ordinance granting such right or franchise shall provide that failure to pay said compensation at the time specified therein shall forfeit and terminate said franchise. Said compensation shall be deemed to be a bonus payable to the city for the use and the right granted and shall be exclusive of and in addition to all ad valorem or occupation taxes, payable by the owner of said franchise.

15. The terms of this charter concerning the granting of franchises to persons or corporations for the purpose of rendering any public service wholly within the city and its suburbs shall not apply to interurban railways, except as specified in the four preceeding sections and in the various sections providing for the referendum.

16. The Board of Commissioners shall have power to authorize steam railways operating their lines from the city of Tulsa to other towns and cities beyond its limits to lay their tracks and establish their switches on and over the streets and other property of the City of Tulsa, or such parts thereof as the Board of Commissioners may see fit, subject to the terms of this charter and to such conditions as may be imposed by the Board of Commissioners.

17. The City of Tulsa shall have the power, by ordinance or other wise, to regulate the speed of engines, locomotives and street cars within the limits of said city; and to require steam interurban and electric railway companies to keep the streets over which they run properly drained and to light the same wherever deemed necessary and to require steam, interurban and electric railway companies to construct and keep in repair from curb to curb, bridges and crossings over all ditches made or crossed by any line of said railways on all streets over which they run; to direct and control the laying and construction of railroad tracks, turnouts and switches and to regulate the grade of same, and to require them to conform to the grade of the streets of said city as they may hereafter be or are now established, and that said tracks and turnouts and switches be so constructed and laid out so as to interfere as little as possible with the ordinary travel in the use of the streets; to require steam railways using any portion of the streets of the city to pay all or any part of the paving, grading, draining and repairing thereof along the streets so used by such railway, and to light the same whenever and wherever deemed necessary or advisable; to require any street or electric railway company to pay the cost of grading, paving, repairing or re-paving, or otherwise improving the street or streets or intersections thereof used or occupied by such railway company and such cost shall be a lien upon the property and franchise of the company.

The portion of the street occupied by an electric or street railway company shall be deemed to be the space between its tracks and twenty four inches on the outside of each of its rails, and all the space between double tracks, turnouts and switches.

Any railroad company, interurban or street railway company proposing, with the permission of the City of Tulsa, to occupy any street or streets already occupied by any other such company shall, besides

paying for paving as may be required by the City of Tulsa or by the provisions of this charter, be required also to pay for paving between the tracks of said roads within twenty-four inches of the track if such other road, and such costs shall be a lien upon the property and franchises of the company; and if the Board of Commissioners shall so direct, said street or electric railway company may be required to pave the street or streets occupied by them from curb to curb.

Should any railroad or street railway company propose to lay a track on any street or portion of a street which shall have been improved under the provisions of this act, it shall become liable for the portion of the cost of such improvement as the Board of Commissioners may direct, or as is fixed by this charter. No railroad or street railway company shall be permitted to occupy any street or portion of a street, improved or otherwise, not previously occupied by it, except with the permission of the Board of Commissioners.

18. All persons or corporations now operating or hereafter operating within the corporate limits of the City of Tulsa, any interurban electric railway line, either on their own or other street railway tracks, shall be required to give reasonable local passenger service thereon within the corporate limits of the City of Tulsa between all points on said interurban line or lines for a fare not exceeding five cents, and to that end shall be required to stop passenger cars so operated by them at all street crossings in said city, to take on and let off local passengers, provided that this shall not apply to any portion of such interurban lines where local service is furnished by local cars to the same extent as is required under the foregoing provisions hereof.

19. The City of Tulsa, shall have the power by ordinance, to fix and regulate the price of water, gas and electric lights, and to regulate and fix the fares, tolls and charges of local telephones and exchanges of public carriers and hacks, whether transporting passengers, freight or baggage, and generally to fix and regulate the rates, tolls and charges, and the kind of service of all public utilities of every kind.

20. The Board of Commissioners shall have the power to require any corporation holding a franchise from the city to allow the use of its tracks, poles and wires by any other corporation to which the city shall grant a franchise, upon the payment of a reasonable rental therefor to be fixed by the Board of Commissioners.

ARTICLE III.

THE BOARD OF COMMISSIONERS.

1. All powers conferred on the city shall, unless otherwise provided in this charter, be exercised by a Mayor and four Commissioners, who together shall be known and designated as the Board of Commissioners, all of whom shall be elected by the qualified voters of the city at large, and shall devote their entire time to the service of the city. The Mayor and members of the Board of Commissioners shall be conservators

of the peace, with full powers to make arrests in all causes the same as police officers.

The Mayor shall be ex-officio president of the said Board of Commissioners, and shall have and exercise all of the powers of a member thereof.

2. On the sixth Tuesday after this charter shall take effect, and biennially thereafter on the first Tuesday of April, there shall be elected at an election to be held in said City of Tulsa, to be called as hereinafter provided, a Mayor and four Commissioners, who together shall compose said Board of Commissioners, and who shall serve for the term of two years and until their successors shall be elected and shall qualify. Candidates for Mayor and for places on said Board of Commissioners shall be voted for separately, and candidates for Commissioner No. 1, No. 2, or No. 3, or No. 4. (said numbers to be printed after the designating title "Commissioner"), in accordance with the written requests which said candidate shall file with the City Auditor. Each candidate for Commissioner shall designate in the announcement of his candidacy, and in his request to have his name placed on the official ballot, the number of the place on the Board of Commissioners for which he desires to become a candidate and such request to be placed on the official ballot shall be filed in writing with the City Auditor at least ten days before such election shall be held. The City Auditor shall prepare an official ballot in accordance with such requests and with the provisions hereof, and only such ballot shall be used at said city election. The candidate at said election for Mayor or for a place on said Board of Commissioners who shall receive a majority of all the votes cast for the office for which he is a candidate shall be declared elected to such office. In the event any candidate for either of said offices shall fail to receive a majority of all votes cast for all the candidates for such office at such election, the Mayor of said city shall, on the first day following the completion of the official count of the ballots cast at said election, issue a call for a second election to be held in said city on the second Tuesday following the issuance of such call, at which said election the two candidates receiving the highest number of votes for any such office to which no one was elected at said first election by receiving a majority of all votes cast thereon, shall be again voted for. The official ballot to be used at said second election shall be prepared by the City Auditor and the name of no person shall appear thereon unless he was a candidate for the office designated at said first election, and the two persons receiving at said first election, the first and second highest number of votes cast for candidates for such office shall be entitled to have their names printed on said official ballot, in the order of their standing in the computation of the votes cast at said first election, as candidates at said second election for such office; provided, that in the event any person who was a candidate at said first election and who shall be entitled to become a candidate at said second election shall fail to request that his name shall appear on the official ballot therefor, as herein provided, the candidate for

such office standing next in order in the computation of votes shall succeed to his rights with respect thereto; provided, further, that two candidates for such office at said first election shall be entitled to become candidates therefor at said second election. which two candidates at said first election, as shall file written requests to be placed on the official ballot as candidates for such office at said second election. In the event of a tie in the vote for the leading candidates for any office at said first election, said office shall be filled at second election, as herein provided for, at which such candidates, so tied in said first election may again become candidates. In the event they, or either of them, shall fail so to do, the two candidates for such office who lead in the computation of votes therefor. and who desire to become candidates therefor, at said second election, shall be entitled so to do, in the order of their respective votes at said first election.

In the event of a tie between the two candidates for any office at said second election they shall cast lots to determine who shall be elected thereto.

3. In case a primary election is held pursuant to the call or under the direction of any political party, or of any association of individuals for the nomination of candidates for the offices of Mayor and Commissioners and City Auditor, the candidates or persons voted for in said primary election shall be voted for at large by all of the legally qualified voters in said city according to and in the manner now or hereafter provided by the general election law of the State of Oklahoma.

Independent candidates for Mayor or for positions on said Board of Commissioners or for City Auditor shall be entitled to have their names placed on the official ballot to be used in the regular election by filing with the City Auditor, not less than ten days before such election, a written petition therefor. which shall be signed by such candidate and by at least one hundred qualified voters of said city.

4. Any election and all regular and special elections held in and for said city shall be governed in all respects by the general election laws of the State, except as herein specially provided.

5. Each member of the Board of Commissioners and the City Auditor shall in addition to the other qualifications prescribed by law, be at the date of his election a qualified voter of the City of Tulsa, and shall not be in arrears in the payment of any taxes or other liabilities due the city.

6. The Mayor shall be a member of the Board of Commissioners with all the rights, powers and duties appertaining thereto. He shall be the chief executive officer of said city, and shall see that all the laws thereof are enforced. It shall be his special duty to see that the conditions of all franchises granted by the city are faithfully complied with, and that all contracts made with the city are faithfully executed. He shall nominate all appointive officers of the city, and such nominations shall be subject to confirmation by the Board of Commissioners, by a majority vote thereof. The Mayor shall not be entitled to vote as a member of said board upon the question of the confirmation of

any nomination for office so made by him, but shall be entitled to vote upon all other questions that may be submitted to or acted upon by said board. The officers to be thus nominated by the Mayor and confirmed by the Board of Commissioners shall be all officers whose powers, or duties or salaries are prescribed and defined by ordinance of said city. The salary of the Mayor shall be Fifteen Hundred (\$1,500.00) Dollars per year, payable in equal monthly installments.

The Board of Commissioners shall at the beginning of their terms of office elect by ballot, by a majority vote of all the members thereof, one of their number to act as Mayor protem, and the Commissioner so chosen shall be invested with all the powers, and shall perform all the duties of the Mayor, during his absence or sickness.

7. In the case of the death, resignation or permanent disability of the Mayor or whenever a vacancy in the office of Mayor shall occur for any reason, the Mayor protem shall act as Mayor, and shall possess all the rights and powers of the Mayor, and perform all of the duties and receive his salary under the official title, however, of "Mayor pro-tem," until an election is ordered by the Board of Commissioners to fill the vacancy in the office of the Mayor. Said election should a vacancy occur in the office of the Mayor, shall be called by the Board of Commissioners and held within thirty days thereafter, and notice by publication given for at least twenty days as may be required by law; provided, that in the event such vacancy should occur within ninety days of the next regular election to be held for members of the Board of Commissioners said election for Mayor shall be held at said next regular election.

8. The Board of Commissioners, at their first meeting after election, or as soon thereafter as may be practicable shall, by a majority vote, designate from among their members one Commissioner who shall be known as "Police and Fire Commissioner," and who shall have under his special charge the enforcement of all police regulations of said city, and general supervision over the fire department thereof and such other duties as may be required by the Board of Commissioners; one Commissioner to be known as the "Commissioner of Streets and Public Property," who, except as herein otherwise provided, shall have under his special charge the supervision of the streets, alleys, public grounds and other property of said city, and be charged with the duty of lighting the streets and keeping the streets, alleys, public grounds and property in a clean and sanitary condition and with the enforcement of all rules and regulations necessary to these ends, and who shall also have under his special charge the supervision of all public improvements, except as herein otherwise provided, and shall see that all contracts therefor are faithfully complied with, and such other duties as may be required of him by the Board of Commissioners; and one Commissioner to be known as the "Waterworks and Sewerage Commissioner," who shall have under his special charge the construction, maintenance and operation of the waterworks, sewer system and departments of said city, and shall see to the enforcement of all regulations with respect to said departments with respect to all

the revenues pertaining thereto, and shall perform such other duties as may be required of him by the Board of Commissioners; and one Commissioner who shall be known as the "Commissioner of Finance and Revenue," who shall have under his special charge the enforcement of all laws for the assessment and collection of taxes of every kind and the collection of all revenues belonging to said city from whatever source the same may be derived, and who shall also examine into and keep informed as to the finances of such city, and such other duties as may be required by the Board of Commissioners. It is expressly provided that the number by which a Commissioner was designated upon the official ballot shall bear no relation to and shall in no manner be considered in the determination of the particular position or office to be assigned to any Commissioner. Said Commissioners shall perform all of the executive duties of the respective departments to which they may be assigned, as above provided, but said board, as a whole, shall have supervision of and be responsible for the administration of each of said departments. Provided, that the Board of Commissioners shall have at any time power to transfer the Commissioners from one department to another. The salary of each of said Commissioners shall be Twelve Hundred (\$1,200.00) Dollars per year, payable in monthly installments.

9. The Commissioners named as the head of each department shall audit all accounts or claims against it, unless he be absent or fail or refuse so to do, in which event the Mayor shall appoint another Commissioner to act in his stead during his absence, or to audit such claims and accounts as the said Commissioner shall fail or refuse to act upon; but before payment all accounts shall be acted upon and approved by said Board of Commissioners at a meeting of said board. Said board shall require a statement to be published monthly in the official newspaper of said city showing a full, clear and complete statement of all taxes and other revenue collected and expended during the preceeding month, indicating the respective sources from which the moneys were derived and also indicating the disposition made thereof, and showing all disbursements during said period.

10. The Mayor and each member of the Board of Commissioners shall be required to give bond in the sum of ten thousand dollars for the faithful discharge of his duties.

11. The Board of Commissioners shall be vested with the power and charged with the duty of adopting all laws and ordinances not inconsistent with the constitution and laws of this State touching every object, matter and subject within the purview of the local government instituted by this charter.

12. Every ordinance, or resolution of the Board of Commissioners shall, before it takes effect, be presented to the Mayor for his approval and signature. If he approves it, he shall sign it; if he disapproves it, he shall specify his objection thereto in writing within five days and return the same to the Board of Commissioners with such disapproval. If he does not return it, it shall, after five days, be in effect and force, as if he had approved it.

A veto by the Mayor shall suspend the action of the Board of Commissioners for seven days, after which time the Board of Commissioners may pass the same over the veto of the Mayor by a majority vote. but in all such cases the Mayor shall not be deprived of his right to vote as a member of the Board of Commissioners by reason of such veto. In case the Mayor's veto is sustained, the matter shall not again come before the Board of Commissioners within six months. In ordinances or resolutions making appropriation, the Mayor may veto any or every item therein, but such veto shall not extend to the items not vetoed, and those which he approves shall not become effective, unless passed over his veto in the manner specified.

13. The Board of Commissioners shall have control and supervision over all the departments of the city, except as herein otherwise provided, and to that end shall have power to make and enforce such rules and regulations as they may see fit and proper for and concerning the organization, management and operation of all the departments of said city and whatever agencies may be created for the administration of its affairs. They shall have power to create such offices as they may deem necessary for a prudent and successful administration of the affairs of the city, and to fix the salaries of the persons appointed thereto; provided, that the term of any office so created by them shall never exceed the period of one year, and they shall have power to abolish at any time any such office and to terminate the official duties and relations of the person occupying the same. The Mayor shall propose and submit to the Board of Commissioners nominations for all offices created by said board, and said nominations shall be subject to confirmation by a majority vote of the board, not including the vote of the Mayor. In the event any such nomination by the Mayor shall fail of confirmation by the board, it shall be the duty of the Mayor to make a temporary appointment of an officer pro-tem to discharge the duties of said position, who shall not have been rejected by the board as a nominee of the Mayor for said office, and to submit another nomination to the Board of Commissioners, and to continue until one shall be ratified and confirmed by said board.

Each member of the Board of Commissioners shall have the right to propose and name the employes in the department or departments under his immediate supervision. but a majority of the board shall have the power to reject any such proposal and to discharge any officer or employe of the city except the City Attorney, and Corporation Judge.

All salaries and wages to be paid employes of the city, except as otherwise provided herein, shall be fixed and paid by the Board of Commissioners, acting as a whole, and shall not become effective unless at least three members of the board shall vote therefor.

14. The Board of Commissioners shall meet at least two times in every week in regular meeting at such times as shall be fixed by said board, at the city hall in said city, to consider and take under advisement and act upon such business as may come before them. A majority of said board shall constitute a quorum for the transaction

of all business. but no action of said Commissioners shall be effective unless upon a vote of the majority of such quorum, and no ordinance shall be passed or become effective without receiving the votes of at least three members of the board. No final action shall be taken in any matter concerning the special department of any absent Commissioner unless such business has been made a special order of the day by action at a previous meeting of the board, or such action is taken at a regular meeting of the board. Special meetings may be called by the Mayor or by any two members of said board at any time to consider only such matters as shall be mentioned in the call for said meeting, and written notice thereof shall be given to each member of said board. All sessions of said board, whether regular or called, shall be open to the public.

15. It shall be the duty of the Mayor from time to time, to make such recommendations to the Board of Commissioners as he may deem to be for the welfare of the city, and on the first Monday in July of each year, or as soon thereafter as practicable, to submit to the Board of Commissioners the annual budget or estimate of the receipts and expense of the city for the fiscal year, each item in which may be increased, reduced or omitted by the board, subject to the veto power of the Mayor.

16. It shall be the duty of the Board of Commissioners, on the second Monday in July, or as soon thereafter as practicable, to appropriate such sums of money, respectively, for each of the various departments of the city government as it deems necessary for the maintenance and operation thereof during the current year. The current fiscal year shall begin at 12:01 o'clock, noon, on the first day of July of each year.

In addition to the department appropriations herein provided for, the Board of Commissioners shall also make such appropriations for contingent purposes, as may be deemed necessary.

The appropriation herein provided for shall be based upon estimates submitted by the Mayor in his annual budget, provided the same shall have been submitted to the board as herein provided.

The head of each department created by the Board of Commissioners shall make a written report to the Mayor not later than the 5th day of July in each and every year, showing the operation of such department for the preceding year. These reports shall be transmitted to the Mayor and shall accompany and be made a part of the Mayor's report to the Board of Commissioners, which report shall not be made later than the second Monday in July in each year.

The Mayor shall also make such recommendations to the Board of Commissioners concerning the increase or decrease of departmental estimates as in his judgment may best serve the interests of the city. He shall also submit an estimate for a special contingent fund for the current year.

In making up the budget allowance for any current year the Board of Commissioners shall first make provisions for the payment of the interest and for the creation, setting aside and preservation of a legal sinking fund upon all of the outstanding indebtedness of the city and

shall then make such appropriations as the remaining revenues of the city may justify to be appropriated among the respective departments, or otherwise appropriated for public uses, as the Board of Commissioners may seem best; provided, however, that in no case shall the entire appropriations so made, including interest and sinking fund on the bonded debt, and appropriations for all other public uses and purposes, ever exceed the estimated available resources, which shall be based upon the probable revenue of the city derived from ad valorem taxes upon the basis of the total valuation of property for taxation for the preceding year, and of such other contingent revenues of the city as will probably accrue.

It shall be deemed malfeasance for the Board of Commissioners to make an appropriation in the budget, the sum total of which shall exceed the estimated available or probable revenues for any current fiscal year.

17. The Board of Commissioners at its second regular meeting in June of each year, or as soon thereafter as practicable, shall levy the annual tax for such year, but special taxes or assessments allowed by this charter may be levied, assessed and collected at such times as the Board of Commissioners in each case may provide.

18. The Board of Commissioners shall have full power to provide, by ordinance, for the prompt collection of taxes, levied, and imposed under this charter, and are hereby authorized, and to that end may and shall have full power and authority to sell or cause to be sold all kinds of property, real and personal, and may and shall make such rules and regulations and ordain and pass all ordinances deemed necessary to the levying, laying, imposing, assessing and collecting of any taxes provided for in this charter. Unless otherwise provided by this charter and by ordinance passed thereunder, all property in such city liable to taxation shall be assessed in accordance with the provisions of general laws of the State in so far as applicable.

19. The Board of Commissioners shall have the management and control of the finances of the city except as otherwise herein provided. They shall have the power to appropriate money and provide for the payment of debts and expenses of the city; to provide by ordinance special funds for special purposes provided for under the provisions of this charter, and to make the same disbursable only for such purpose, and to impose proper penalties for enforcing the same; to provide by ordinance for the payment of any existing and outstanding indebtedness and for the payment of any bonds that may from time to time, be issued, and shall for such purposes have the power to levy, assess and collect a special tax.

20. The Board of Commissioners shall have the power to fund or refund by ordinance the whole or any part of the existing debts of the city, or any further debt by acquiring and cancelling the evidence thereof and to issue other bonds in lieu thereof, either registered or coupon, bearing interest at a rate not greater than the original indebtedness, and to this end may apply the sinking fund belonging to any series of

bonds so refunded, and may pay and retire any bond by using the sinking fund thereof.

21. Neither the Mayor nor any member of the Board of Commissioners, nor any elective or appointive employe of the city, shall be directly or indirectly in the employ of any person, company, or corporation holding or seeking to hold any franchise of the City of Tulsa, or shall receive, directly or indirectly, any wage, commission fee, gift, favor or payment from any such franchise holder; and a violation of this section shall ipso facto, render vacant the position held by the person so violating it, and shall be punished as bribery.

No member of the Board of Commissioners or any other officer of the city shall be directly or indirectly interested in any work, business or contract, the expense, price or consideration of which is paid from the City Treasury, or by any assessment levied by ordinance or resolution of the Board of Commissioners; nor be the surety of any person having any contract work or business with said city for the performance of which security may be required, nor be the surety on the official bond of any officer of the city. Contracts in violation of said provision shall be void.

22. The Board of Commissioners shall by ordinance adopt such rules and regulations for its government and order of business as its members may deem best. It shall be the judge of the qualifications and election of its members, including the Mayor, and shall have authority to recount the votes cast for either of its members, and to correct the results which may have been theretofore declared, in the event notice of a contest of any such election shall be given within thirty days after such election shall have been held. It shall also be the judge of the election and qualification of all other city officers subject to the provisions of this charter applying thereto. It may punish members, or other persons, during its sittings by fine for disorderly conduct.

23. The Mayor and each Commissioner and the City Auditor shall be, and they are hereby authorized to administer oaths in the municipal affairs and government of the city.

24. If a vacancy shall occur in the Board of Commissioners, (excepting the Mayor), or the office of the City Attorney or Corporation Judge or City Auditor, the Mayor shall nominate a person to fill the unexpired term of such office, and submit his name to the Board of Commissioners. If such nomination shall receive the approval of three members of the board, not including the Mayor, said appointment shall take effect from the date of such confirmation. In the event said board shall fail or refuse to confirm such nomination, the Mayor shall submit another nomination of a different person for said office, and shall continue so to do until a nomination so made by him shall be confirmed by the Board of Commissioners. In the event of a vacancy in the office of City Attorney, or Judge of the Municipal Court, or City Auditor which shall not be promptly filled as above provided, it shall be the duty of the Mayor to appoint an officer pro-tem to perform the duties of such vacated office, which said pro-tem officer shall be entitled to receive the regular salary for said services for the time he shall per-

form them, and shall serve in said capacity until said office shall be filled in accordance with this charter.

25. All the powers vested in this charter in the Board of Commissioners of the City of Tulsa, in regard to ordinances and all legislative authority vested in said board, are subordinate and subject to said powers of the initiative and referendum as set forth in the Constitution and statutes of the State of Oklahoma, which are now in force and effect, or which may be hereafter passed to carry out the provisions of the constitution in regard to the initiative and referendum.

CITY ATTORNEY—ARTICLE IV.

The Mayor shall, at the first meeting of the first Board of Commissioners elected under this charter, and on the fourth Tuesday in April, 1909, and annually thereafter, submit to the Board of Commissioners a nomination for the office of City Attorney, and said board shall confirm or reject such nomination by a majority vote thereof not including the Mayor. The votes of three members of said board shall be sufficient to confirm or to reject such nomination and in the event such nomination shall be rejected, it shall be the duty of the Mayor to submit the name of a different person to the Board of Commissioners as nominee for said office and he shall continue so to do until a nomination so made by him shall be confirmed by said board.

The City Attorney shall receive such salary as shall be fixed by the Board of Commissioners at the beginning of his term and said compensation shall not be increased or diminished during his term of office. The City Attorney chosen in 1908 shall serve until his successor shall be chosen as herein provided and shall qualify. Said officer shall represent the city in all litigation and controversies. The Board of Commissioners shall be empowered at its discretion to employ an assistant or assistants for said officer, and to fix the compensation to be paid for such service, and such City Attorney and his assistants shall have authority to administer oaths and affidavits. It shall be the duty of the City Attorney to approve in writing all proposed ordinances before they shall be adopted, or to file with the Board of Commissioners in writing his objections thereto. It shall be his duty to draft all proposed ordinances granting franchises, and in the event he shall not approve any such proposed ordinance, it shall be his duty to file with the Board of Commissioners, in writing his objections thereto. It shall be the duty of said officer to inspect and pass upon all papers, documents, contracts and other instruments in which the city may be interested. He shall be the legal adviser of the Mayor, the Board of Commissioners, or any committee thereof, and all city officers and employes with respect to any legal question involving an official duty or any other matter pertaining to the affairs of the City of Tulsa. The City Attorney shall perform such other duties as the Board of Commissioners may direct. When ever it shall be brought to the knowledge of the City Attorney, through the affidavit of ten credible persons or otherwise, that any person, firm or corporation exercising and enjoying any franchise or privilege from the City of Tulsa has been guilty of a breach of any condition of such grant, or has failed to comply in any material mat-

ter with the terms and stipulations thereof, it shall be the duty of said officer to make report of said matter to the Board of Commissioners, together with all facts bearing upon the same which may be brought to his attention. If said board shall determine that said complaints are well founded, it shall be its duty to take such action as may be necessary; and in the event the offending corporation shall fail or refuse to conform to such orders as it may make with respect thereto, it shall be the duty of the board to direct the City Attorney to institute a suit in the court having jurisdiction thereof against such person, firm or corporation so offending to obtain a judgment of forfeiture of said franchise or privilege.

MUNICIPAL COURT.

There shall be a court for the trial of misdemeanor offenses known as the "Municipal Court."

The Magistrate of said court shall be known as the "Judge of the Municipal Court," he shall be a qualified voter of the City of Tulsa, shall be appointed by the Mayor and confirmed by the Board of Commissioners, shall hold his office for one year unless sooner removed by impeachment, and shall receive such salary as may be fixed by the Board of Commissioners, which salary shall not be increased or diminished during his term of office. There shall be a clerk, or clerks of said court, and such deputies as may be created or provided for by ordinance adopted by the Commissioners, which deputies shall be appointed by the Mayor and confirmed by the Board of Commissioners, and shall be subject to removal at any time by the Board of Commissioners, and shall receive such salary as may be fixed by the Board of Commissioners.

The clerk or clerks of said court and the deputies thereof shall have the power to administer oaths and affidavits, make certificates, affix the seal of said court thereto, and generally to do and perform all things and acts usually or necessary to be performed by clerks of courts in issuing process of said courts and conducting the business thereof.

The Board of Commissioners may require such clerk, clerks or deputies created by it to perform such other duties in addition to the duties of clerk or deputy clerk as may be prescribed, or may provide that some other employe or employes of the city, in addition to other duties, may perform the duties of such clerk or deputy clerk, without extra compensation.

The Mayor shall within fifteen days after his election and qualification for the years of 1908 and 1909, and annually thereafter, nominate and submit to the Board of Commissioners for confirmation, the name of a person proposed by him for the office of Judge of said Municipal Court. Said officer shall be a regularly licensed and practicing attorney and a qualified voter of the City of Tulsa, and shall have resided in said city at least one year before said appointment. He shall receive for his services such compensation as may be fixed by the Board of Commissioners and such compensation shall not be changed during his term of office.

If the Board of Commissioners should fail or refuse to confirm any nomination for judge of the Municipal Court, it shall be the duty of the Mayor to submit another nomination for such office and to continue so to do until a nomination shall be confirmed. The Mayor shall have authority to make a temporary appointment to fill a vacancy in said office, to continue until an appointment thereto made and submitted by him to the Board of Commissioners shall be confirmed thereby, which said temporary appointee shall not have been theretofore rejected by the Board of Commissioners as a nominee for said office.

3. On the sixth Tuesday after this act shall take effect, and on the first Tuesday in April, 1910, and biennially thereafter there shall be elected a City Auditor, who shall be elected by the qualified voters of the city at large, and who shall be nominated and elected at the same election as provided for the election of Mayor and four Commissioners, and shall be nominated and elected in the same manner as is provided in Article four, for the nomination and election of Mayor and four Commissioners. He shall serve for the term of two years and until his successor shall be elected and shall qualify; Provided, That the first Auditor elected under this charter shall hold until his successor, who shall be elected on the first Tuesday of April, 1910, shall qualify.

4. It shall be the duty of the Auditor to examine in detail all bills, accounts and claims against the said city, and if found correct to sign his name in approval thereof, but if found incorrect he shall return them to the party presenting the same for correction. He shall be the general accountant of the said city, and shall keep in books regular accounts of all real, personal and mixed property of the said city; of all receipts and disbursements of money; and under proper heads, separately, each source of receipt and the cause of each disbursement; and shall also keep an account with each person, including the officers, who have money transactions with the said city, crediting amounts allowed by proper authority, and specifying the particular transaction to which such entries apply. It shall be his duty at least once in each month to examine the books of account of all officers of said city charged with the receipt and disbursement of money, and if they be found incorrect, to at once make a report in writing of the same to the Mayor. It shall also be his duty to examine all warrants and countersign the same after appropriation has been duly made to pay the same by said Board of Commissioners. He shall certify to the correctness of all monthly reports which shall be published by the Board of Commissioners, as required by Article 3 hereof. It shall be his duty to ascertain whether any expenditure made or proposed to be made by the city is excessive, either in the price of the thing purchased, the computation of the charge or otherwise, and if he shall so find, he shall make report thereon to the Board of Commissioners and state the facts in his certificate to be attached to the monthly report to be published as herein provided for. He shall receive for his services a salary of Twelve Hundred (\$1,200.00) Dollars per annum, payable in equal monthly installments, and shall give bond for the faithful performance of his duties in the sum of Ten Thousand (\$10,000.00) Dol-

lars. with two or more good and sufficient sureties, to be approved by the Board of Commissioners. He shall also act as Secretary of the Board of Commissioners and shall be present at all meetings of said board and shall keep a record of the minutes thereof and shall do and perform all the duties in relation thereto and shall perform such other duties in addition to the duties herein prescribed as the Board of Commissioners shall by ordinance provide.

5. The City Attorney and Judge of the Corporation Court, shall each serve for the period of one year. The City Attorney and Judge of the Corporation Court shall receive such compensation as may be fixed by the Board of Commissioners at the beginning of their terms. and such compensation shall not be increased or diminished during such terms.

6. The City Attorney and Judge of the Corporation Court shall not be subject to removal from office by the Board of Commissioners but such above named officers and Mayor and each member of the Board of Commissioners and the City Auditor may be removed for the causes named in Section 199 of the State Constitution, and in the manner provided or which may hereafter be provided for the removal of municipal elective officers, by general law.

7. The Board of Commissioners shall have power to provide for such other officers and employes as may be necessary, to fix the compensation to be paid thereto, and to employ such person and to make such compensation therefor as may seem expedient and necessary to the board; Provided, That a majority thereof shall approve such action; and, Provided Further. That all officers other than those specially mentioned herein shall hold their offices for a term of not exceeding one year, and shall be subject to removal at any time by the Board of Commissioners.

CITY TREASURER.

8. The Mayor shall at the first meeting of the Board of Commissioners elected under this charter and on the fourth Tuesday in April, 1909, and annually thereafter, submit to the Board of Commissioners a nomination for the office of City Treasurer, and said board shall confirm or reject such nomination by a majority vote, not including the Mayor. The votes of three members of said board shall be sufficient to confirm or reject such nomination, and in the event such nomination is rejected it shall be the duty of the Mayor to submit the name of a different person to the Board of Commissioners as nominee for said office and he shall continue so to do until a nomination so made by him shall be confirmed by said board. Said Treasurer shall give such bond as the Board of Commissioners may require. conditioned for the faithful discharge of his duties. He shall receive and securely keep all moneys belonging to the city, and make all payments for the same upon an order signed by the Mayor and countersigned by the Auditor; Provided, That no order shall be paid unless it shows upon its face that the Board of Commissioners have ordered its issuance, and for what purpose. He shall render a full and correct statement of his receipts and payments to the Board of Commissioners at their first regular

meeting in every month, and at such other times as the Board of Commissioners may require. He shall perform such other acts and duties as the Board of Commissioners may require, and shall receive for his services such salary as shall be allowed by the Board of Commissioners.

ARTICLE V.

THE PARK BOARD.

1. Within thirty days after the election of the Board of Commissioners under this charter, or as soon thereafter as practicable, and on the fourth Tuesday in April, 1910, and biennially thereafter the Mayor shall appoint four qualified voters of the City of Tulsa, subject to confirmation by the Board of Commissioners, who shall, with the Mayor, constitute the Park Board of said city, and who shall serve for a period of two years and until their successors are appointed and qualified. Said Park Board shall have exclusive jurisdiction over the control, management, improvement and maintenance of the public parks of the City of Tulsa with power to acquire, in the name of the city, land for park purposes, except as herein otherwise provided.

2. All funds appropriated and set apart for public parks, whether derived from appropriations made by the Board of Commissioners, or from tax levies, or from any other source whatsoever, shall be deposited with the City Treasurer to the credit of the park fund, and paid out only upon order of said Park Board after same shall have been audited by the City Auditor.

3. The Park Board shall adopt such rules and regulations as it may deem best for the management of the public parks of the city and shall elect one of its members president of the Park Board.

The said Park Board shall render to the Board of Commissioners quarterly reports for the quarters ending the last day of September, December, March and June, or as soon after the end of each quarter as practicable, showing in detail all the transactions of said board for the quarter.

4. The Board of Commissioners when levying the taxes for each fiscal year, may levy an ad valorem tax of not to exceed one-tenth of one per cent. of the assessed value of all real and personal property in the city not exempt from taxation by the Constitution and laws of the State for the use and benefit of the park fund. Said tax when collected, shall be deposited with the City Treasurer to the credit of the park fund, and said sum, together with all sums received from other sources, shall be held by the City Treasurer subject to the order and disbursement of the Park Board for acquiring additional land for parks and improving and maintaining parks, and shall be paid out upon warrants issued by the Park Board, signed by the president of said board, and countersigned by the City Auditor.

5. The four Park Commissioners shall possess the same qualifica-

tions and be subject to the same disqualifications provided by law for Commissioners of the City of Tulsa, and shall serve without compensation.

The Park Board may select such guards as they may deem necessary to protect the parks and property thereon in the City of Tulsa, and such guards shall be commissioned as policemen by the proper municipal authorities at the request of said board, but such persons shall be under the control of the Park Board and their compensation shall be fixed by said board, and they shall be subject to removal or dismissal at the pleasure and without cause by said board.

ARTICLE VI.

ASSESSMENT AND COLLECTION OF TAXES.

1. The Assessor and Collector of taxes shall be under the immediate supervision of the Commissioner of Finance and Revenue, who shall be directly responsible for the performance of all duties relating to said office. He shall assess all taxable property in such manner and within such time as the Board of Commissioners may prescribe. He shall make duplicate assessment rolls and on their completion and approval by the Board of Commissioners shall deliver one to the Commissioner of Finance and Revenue, and file one with the City Auditor. He shall be authorized to require property holders to tender a correct account of their property under oath or affirmation to be by him administered. The Commissioner of Finance and Revenue shall collect all taxes due the city whether the same be general, special assessment, occupation, license, or otherwise, and shall pay the same over to the City Treasurer within twenty-four hours of their collection, taking duplicate receipts therefor, one of which he shall retain, and the other he shall turn over to the Board of Commissioners. He shall monthly, or oftener, if required, make a detailed report to the Board of Commissioners of all collections made by him. He shall be vigilant and see that no business of any kind is conducted unless license or occupation tax due therefor shall have first been paid. The commissioner of Finance and Revenue shall be responsible for all acts of the deputies in said offices. He shall be active in collecting all delinquent taxes and enforce their collection as herein provided, and as may be provided by ordinance. He shall have all the powers and perform all the duties here provided, and such others as the Board of Commissioners may confer and prescribe. For any failure to deposit with the City Treasurer within twenty-four hours of the collection thereof, all moneys collected by him, the said Commissioner of Finance and Revenue and the sureties on his bond shall be required to pay interest at the rate of ten per cent. per annum on such money until deposited, and the Board of Commissioners shall have power to remove said member from the department of Finance and Revenue for failure to deposit any collections as required, and appoint another member to said department, and it shall be their duty to make such removal for such offense if it shall be persisted in by him.

If the assessor of taxes purposes to increase any assessment over the amount assessed in the preceeding year, he shall cause notice stating the fact that the assessment of the property owner is about to be increased, without specifically designating the particular property, or the amount to be increased, to be addressed to the owner, agent or representative thereof, and mailed at the postoffice in the City of Tulsa, and shall give further notice by publication for one day in some newspaper published in the City of Tulsa, and in such newspaper publication the names of as many owners as the assessor of taxes shall see fit may be included in one notice; Provided, When the owner is unknown the newspaper notice shall be sufficient.

The Assessor of Taxes shall have the power under such regulation and method as may be prescribed by the Board of Commissioners by ordinance, to pro rate the taxes against tracts of land owned by different owners which have been taxed together as one tract, and to divide and apportion the lien to each of the several tracts according to its proportion of the entire assessment.

2. The Board of Commissioners shall have full power to provide by ordinance for the prompt collection of taxes assessed, levied and imposed under this charter, and are hereby authorized, and to that end may and shall have full power and authority to sell or cause to be sold all kinds of property, real and personal, and may, and shall make such rules and regulations and ordain and pass all ordinances deemed necessary to the levying, laying, imposing, assessing and collecting of any taxes provided for in this charter. Unless otherwise provided by ordinance and this charter, all property in such city liable to taxation shall be assessed in accordance with the provisions of the general laws of the State, in so far as applicable.

3. The Board of Commissioners shall have power by ordinance to regulate the manner and mode of making out tax lists, inventories and appraisements of property therein, and to prescribe the oath that shall be administered to each person on rendition of his property, and prescribe how, when and where property shall be rendered, and to prescribe the number and form of assessment rolls and fix the duties and define the powers of City Assessor and adopt such measures as the Board of Commissioners may deem advisable to secure the assessment of all property within the city limits, and collect the tax thereupon, and may provide a fine for all persons neglecting, failing or refusing to render their property for taxation.

4. The Assessor of Taxes shall, at least ten days before the first day of January of each year, give public notice by hand bills circulated through the city and by advertisement in some paper, that all persons owning or controlling, as agent or otherwise, any personal property or real estate subject to municipal taxation on or before the first day of April of each year. All merchants doing business in the city are required within the same time, to furnish the Assessor and Collector of Taxes a true statement, verified by affidavit, of all goods, wares and merchandise owned or kept on hand by such merchant on the first day

of January. Any merchant failing to comply with this requirement shall be liable to such fine as may be imposed by ordinance.

5. If the Assessor of Taxes shall discover any real or personal property which was subject to taxation for any previous year, and which from any cause has escaped taxation for that year, he shall assess the same in a supplement to his next assessment roll at the same rate under which such property should have been assessed for such year, stating the year, and the taxes thereon shall be collected the same as other assessments; Provided, That such supplement roll may be made at any time and reported to the Board of Commissioners for its approval, and any number of such rolls may be made that may be necessary. The taxes assessed in such supplement rolls for years previous to the approval of such rolls by the Board of Commissioners, and such taxes may bear interest at the rate of six per cent. per annum from date on which the same would have been delinquent if levied and assessed, and if the same shall not be paid within thirty days after the date of such approval the Commissioner of Finance and Revenue shall proceed to collect the same by advertisement and by sale of such property as soon as practicable; such advertisement and sale to be made in the same manner, and for the same time as in cases of the sale of such property for other ad valorem taxes, as prescribed by the city charter; Provided, That a misnomer of, or failure to name the owner in the assessment roll shall not affect the validity of the assessment of any taxes; and, Provided Further, That when such taxes have not been attempted to be assessed for such previous year, such taxes shall bear interest only from the date of approval of the supplement rolls. The Assessor of Taxes may in any year reassess property, which, because of irregularity in the assessment, of any previous year may have been improperly assessed; such reassessment shall be at the value at which it should have been assessed in any such year, and property owners of such property shall take notice of such reassessment, if made prior to the first of April in any year, but if made after such date, notice shall be given by the Assessor and Collector of Taxes as in case of the raising of an assessment. Any property owner whose property has been re-assessed may appeal to the Board of Appeals as in case of an original assessment.

6. The Assessor of Taxes shall assess all property which for any cause has not been rendered, placing such valuation thereon as he may deem just. If the owners of such property are unknown, such assessment may be made in the name "unknown."

7. No irregularity in the time or manner of making or returning the city assessment rolls or the approval of such rolls shall invalidate any assessment.

8. All property, real and personal, shall be rendered for taxation by the owner thereof or his agent as provided by the laws of the State for the rendition of property for assessment by the county; Provided, However, That in making such renditions the owner or agent shall not be required to state the value of the real property, but shall furnish to the Assessor, verified by the oath of the party making such rendition,

a full and complete list and schedule of all property, real and personal, belonging to the person, firm or corporation in whose name such property is rendered. It shall be the duty of the Assessor to value each and every item of the property so rendered in accordance with the fair cash value estimated at the price it would bring at a fair voluntary sale to be applied alike to all taxpayers, and to transmit to the Board of Commissioners all renditions thus made together with a statement by him, verified by his oath, to the effect that he has truly, fairly and equally valued all such property. The Board of Commissioners, Sitting as a Board of Equalization and Appeals, shall revise the tax rolls, and it shall be their duty to correct all unequal assessments, and to increase or reduce the valuation fixed by the Assessor as the case may require, so as to equalize the bases and method of assessment adopted for all such renditions. It shall also be their duty to hear and fairly determine all appeals from property assessments fixed by them or under their authority. It shall be the duty of the Board of Commissioners to adopt such rules and regulations from time to time as to them may appear necessary to secure complete renditions for assessments of all taxable property in the city.

* The Board of Commissioners shall cause to be prepared, as soon as practicable, an alphabetical list of taxpayers of the city, together with the total amount of property assessed against each which list shall be preserved in the office of the City Auditor and shall be accessible to the public.

9. A lien is hereby created on all property, personal and real, in favor of the City of Tulsa, for all taxes, ad valorem, occupation or otherwise. Said lien shall exist from August first in each year until the taxes are paid. Such lien shall be prior to all other claims, and no gift, sale, assignment or transfer of any kind, or judicial writ of any kind, can ever defeat such lien, but the Commissioner of Finance and Revenue can pursue such property, and whenever found, may seize and sell enough thereof to satisfy such taxes.

10. If anyone against whom a personal tax is assessed, and which is due and unpaid, whether the same be delinquent or not, shall have removed out of the city, or shall be about to remove out of the city, or shall have removed or about to remove his personal property out of the city, it shall be the duty of the Commissioner of Finance and Revenue to proceed at once and collect such taxes by seizure and sale of any personal property of such person to be found in the City of Tulsa or anywhere in the State of Oklahoma.

11. All taxes shall be payable at the office of the Commissioner of Finance and Revenue and the Board of Commissioners shall have full power to sell or cause to be sold, all personal and real property for taxes due, and shall make all rules and regulations necessary for such purpose.

12. No demand for taxes shall be necessary, but it is hereby made the duty of every person or corporation subject to taxation to attend at the office of the Commissioner of Finance and Revenue some time between the first day of August and the first day of November in each

year and pay his or her taxes. If any taxpayer shall fail to pay such taxes before the first day of November after the same shall become due, the same shall be delinquent and bear interest at the rate of six per cent. per annum. Upon all taxes paid or collected after the first day of November the Commissioner of Finance and Revenue shall collect from the delinquent taxpayer a penalty of two per cent. of the total amount of taxes collected from or paid by such taxpayer. On all taxes paid or collected after the first day of December next following the time when such taxes shall have become due, the Commissioner of Finance and Revenue shall collect a penalty of four per cent on the total amount of taxes paid or collected. On all taxes paid or collected after the first day of January next following the date on which such taxes shall have become due, the Commissioner of Finance and Revenue shall collect a penalty of six per cent. on the total amount of taxes paid or collected. On all taxes paid or collected after the first day of February next following the time at which such taxes shall have become due, the Commissioner of Finance and Revenue shall collect a penalty of ten per cent. on the total amount of taxes paid or collected, which penalty shall be cumulative of and in addition to the interest provided for by this section and such penalties shall be an obligation of the taxpayer, and be secured by the same lien and collected in the same manner as the taxes.

13. The Commissioner of Finance and Revenue shall, by virtue of his tax rolls, have power and authority to seize and levy upon personal property and real estate and sell the same to satisfy delinquent taxes. When he seizes personal property for such purposes he shall keep the same at the expense of the owner until the sale is made, and shall give notice of the time and place of sale of same by posting a written notice at the city hall door and one at the court house in the City of Tulsa, at least ten days before the date of sale. He shall sell the same to the highest bidder for cash for all taxes, interest, cost and expense of caring for said property, and shall make an entry in the books of sales of the amount realized; all such sales shall be made at any door of the City Hall specified by ordinance.

14. Before sales of real estate are made, notice of the time and place of sale, together with, as near as may be, a description of the property shall be given by posting two notices, one at the court house and the other at the city hall in the City of Tulsa, also by publication in some newspaper of the city, for at least three weeks, which shall contain a statement of the amount due on each particular piece of ground; all such sales shall be made at any door of the city hall, specified by ordinance.

15. The Board of Commissioners shall have full power to do, or cause to be done, everything whatsoever necessary to enforce a prompt and valid assessment and collection of all taxes and assessments provided for in this charter, and to make all regulations necessary for a valid assessment of such taxes and for the sale of property for said taxes and assessment.

16. The Commissioner of Finance and Revenue shall, where any

real estate has been sold for taxes, make and execute a deed to the purchaser for the property sold, which deed shall be prima facie evidence of the following facts:

First. That the lot or lots, or property conveyed, was or were subject to taxation and assessment at the time of such sale, and at the time taxes thereon were levied and assessed, and that such taxes were regularly levied and assessed in all respects according to law.

Second. That such taxes were not paid in whole or in part at any time before such sale and that a lien existed on the property conveyed in such deed for taxes.

Third. That the real estate therein conveyed was advertised according to law.

Fourth. That the property conveyed was advertised according to law, was regularly and lawfully sold for taxes which were delinquent at the time of the advertisement and sale.

Fifth. When such property shall have been sold to the City of Tulsa or any other purchaser, at such sale, either for general or special taxes, the title acquired by the city, or such purchaser shall not be disputed by any person whomsoever, or for any cause whatever, except upon tender to said city, or purchaser, of the taxes lawfully due on such property for which such sale was made, together with lawful interest thereon, and all accrued penalties and costs, as provided by the city charter of the City of Tulsa.

17. A sale of personal property for delinquent taxes shall convey with it an absolute title, and the owner shall have no right to redeem the same.

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18. The city shall have the right to become a purchaser of property at tax sales, and the Mayor shall attend such sales for such purpose, and may empower any person to so bid on behalf of the city.

19. Whenever any real property is bid off to the city, or to any individual for delinquent taxes, the owner or attorney, or his agents may redeem the same at any time within two years from day of sale by paying the following amounts:

All taxes paid or due, ten per cent per annum interest thereon from the time they became delinquent, and two and one-half (\$2.50) dollars as costs on each piece of property sold, and as a further penalty, a sum equal to twenty-five per cent. of the amount of the delinquent tax, if redeemed in three months; fifty per cent. penalty if redeemed in six months; seventy-five per cent. penalty if redeemed in one year, and one hundred per cent. if redeemed thereafter within two years, the said penalties to go to the purchaser at tax sales, whether the purchaser be the city or an individual.

20. All levies of ad valorem taxes heretofore made by the City of Tulsa, and all assessments heretofore made, and assessment rolls heretofore placed in the hands of the City Collector of Taxes for collection are hereby validated and the same shall be legal and binding, regardless of any irregularity that may exist in the manner of making such levies, and the making and returning of such assessment rolls. This

provision shall apply to all suits and actions now pending, as well as those hereafter prosecuted.

21. In any suit by the City of Tulsa for the collection of any delinquent tax where it shall appear that the description of any property in the city assessment rolls shall be insufficient to identify such property the city shall have the right to set up in its pleadings a good description of the property intended to be assessed and to prove the same, and to have its judgment foreclosing its tax lien upon the same and personal judgment against the owner for such taxes, the same as if such property were fully described upon the assessment rolls.

22. When the owner of the property or his agent shall render any property to the Assessor for assessment, and such property is assessed in accordance with the description furnished by such owner or his agent, the sufficiency of such description shall not be disputed by such owner in any action or suit for the collection of such taxes; but the same shall be binding upon such owner, and shall be sufficient for all purposes of such assessment.

23. The provisions herein for the collection of taxes shall not be construed to prevent the city from filing suit in any court of competent jurisdiction for the collection of any taxes due on real estate, as well as personal property, and for the enforcement of levies for such taxes; and the assessment rolls shall be prima facie evidence of the facts stated in said rolls and that all taxes assessed on such rolls have been regularly levied and assessed in accordance with the provisions of this charter and of the law; and no irregularity in the manner of levying or assessing taxes shall invalidate the same unless it appears from affirmative proof that such irregularity operated injuriously to the taxpayer attempting to avoid the payment of such tax. Nothing in this section shall prevent the Board of Commissioners from hearing all complaints as to erroneous and unjust assessments, and said Board of Commissioners is hereby empowered and it is hereby made their duty to hear such complaints, and said Board shall have power within one year after this act goes into effect, and not thereafter to readjust, compromise and settle all disputes with reference to the legality or validity of taxes claimed to be due by any person or persons upon any real estate within the city. They may reduce former assessments on satisfactory proof that the same was excessive; such settlement when certified to by the Board of Commissioners to be filed with the Commissioner of Finance and Revenue, who shall accept payment of taxes in accordance therewith and thereafter a tax receipt for the amount of said taxes in full for all such years as aforesaid shall be accepted in full satisfaction for said taxes.

ARTICLE VII.

PUBLIC UTILITIES.

1. No street, alley, or public highway in the City of Tulsa shall ever be used by any person, firm or corporation for the construction or operation of a street railway, telegraph line, telephone system, or any

other business of a public or quasi public nature, without obtaining authority therefor under a franchise granted by the Board of Commissioners, in accordance with the provisions of this charter. It shall be the duty of the Board of Commissioners and the City Attorney to bring suit to enforce this provision against any person, firm or corporation violating the terms thereof, for the purpose of ejecting the offender from the occupancy of such property, and to recover damages for the illegal use thereof.

2. The Board of Commissioners shall have power, by ordinance, to provide for and construct a general sewer and drainage system, to be divided into public and private sewers, and drains, and to be constructed, maintained and regulated in such manner and out of such material as the Board of Commissioners may prescribe. Sewers may be established as the Board of Commissioners may direct, and there may be extension of branches of sewers already constructed or entirely new throughout as may be deemed expedient. The Board of Commissioners may, if necessary, levy a tax on all taxable property in the entire city, to pay for the construction and repairs of such public sewers which shall be called a "special sewer tax," and shall be used solely for such purpose. No public sewer shall be run diagonally through private property when it is practicable, without injury to said sewer, to construct it parallel with one of the exterior lines of such property. No public sewer shall be constructed through private property when it is practicable to construct it along or through a street or public highway.

3. The Board of Commissioners shall have the power to appropriate private property for public purposes, whenever the Board of Commissioners of said city shall deem it necessary to take any private property either within or without the city limits for any of the following purposes, to-wit:

In order to open, extend, change or widen any public street, avenue or alley, or for the construction of water mains or sewers, either within or without the city limits, or for the improvement and enlargement of its water works, including riparian rights, water sheds, reservoirs, etc., parks, squares, and pleasure grounds, public wharves and landing places for steamers and other crafts or for the straightening or improving of the channel of any stream, branch or drain such property may be taken for such purposes by making just compensation to the owner thereof. If the amount of such compensation shall not be agreed upon, it shall be the duty of the Board of Commissioners to cause to be stated in writing the real estate or property sought to be taken, the name of the owners thereof, and his residence if known, and the purpose for which said property is sought to be taken, and file such statement with the judge of the District Court of Tulsa County. Upon the filing of such statement, it shall be the duty of such judge, in term time or vacation, to appoint three disinterested freeholders and qualified voters of the County of Tulsa as special commissioners to assess the damages to accrue to the owners by reason of such condemnation. The special commissioners so appointed, shall, in their proceedings, be governed and

controlled by the State laws in force in reference to the condemnation of right of way for railroad companies, and the assessment of damages therefor, the City of Tulsa occupying the position of the railroad company. In estimating the damages to such property the jury shall not only estimate the value of the land so taken but shall also estimate the damage done to the remainder of any land from which it is taken by reason of such taking and use; Provided, However, That in case of the condemnation of land for the opening, extending or widening of any street, or for straightening or improving the channel of any stream, branch or drain within the corporate limits of said city, the Board of Commissioners may, by ordinance, provide that the cost of such property shall be paid by the property owners owning property in the immediate vicinity thereof and benefitted thereby. In such cases the City Engineer shall, under the direction of the special commissioners appointed, make a plat of the property which in the judgment of said special commissioners will be specifically benefitted and enhanced in value by the making of such improvement, whereupon such special commissioners shall issue notice to the owners of such property to appear before them at a time and place to be designated in such notices to show cause, if any they have, why such property should not be assessed to pay the cost of the property so condemned. Such notices may be served by any police officer in the City of Tulsa, or any other officer of the State of Oklahoma, County of Tulsa, authorized by the laws of said State to serve process of the courts of said State; and in all cases where such owner or owners, or any of them, are absent from said city and county, upon the agent of such absent owner, if such owner shall have an agent in said city or county, and in case such absent owner shall not have such agent, or in case the owner of such property is unknown, then such notice shall be published for two days consecutively in some newspaper published in the City of Tulsa; such notice shall be given five full days before the final determination by the special commissioners of the amount of assessment against the owners of such property for such improvement; said special commissioners shall determine the value of the property desired to be taken, belonging to the different owners thereof, if there be more than one such owner, and if there be only one such owner, the value of the same, and shall also find how much of the cost thereof shall be assessed against the owner of each lot or subdivision of the land in the immediate vicinity thereof specially benefitted and enhanced in value by the making of such improvement, and shall report all said matters to the Board of Commissioners of the City of Tulsa, showing a description of the property taken and condemned and the name of the owner thereof, if known, and if the owner of any such property is unknown, shall state said fact, or if there be more than one owner of such property, then the description of the property of each said owner, if known, and if unknown, shall state such fact and the value of the property of each such owner so condemned, and also the description and name of the owner of each subdivision of property if known, and if unknown, shall so state, describing such property so as to identify it against which special assessment should, in the judg-

ment of said board, be made to pay for such property condemned, such apportionment shall be made according to the benefits that will in the judgment of said special commissioners, be received by or accrue to such lot or subdivision of property by reason of the making of such improvements, and such report shall be filed with the City Auditor for the consideration of the Board of Commissioners. The Board of Commissioners shall, as soon as practicable after the filing of such report, consider the same, and if the same is approved by a majority vote of the members present at the meeting at which it considers the same, the same shall be final and binding upon the city and all parties at interest therein. If the Board of Commissioners shall approve said report, it shall levy a special tax against the property shown by said report to be benefitted and enhanced in value by such improvement, according to the recommendation made in such report; such taxes shall be a lien on the property against which the same shall be assessed, from the date of such levy, and shall become due and delinquent at the times provided in the ordinance levying the same. If the same shall not be paid as provided in such ordinance, the Commissioner of Finance and Revenue shall proceed to collect same, as provided in the ordinance, levying same by the advertisement and sale as provided in the city charter in cases of the sale of such property for delinquent ad valorem taxes: Provided, That it shall not be necessary to make such sales at the same time as provided for in the sale of property for delinquent ad valorem taxes. The special commissioners appointed under the provisions of this section shall have the same power to issue writs and subpoenas and compel the attendance of witnesses, etc., as commissioners appointed for the condemnation of land, etc., for the right of way of railroads under the general laws of the State of Oklahoma; shall receive the same compensation for their services and shall be governed in all respects not herein otherwise provided by general laws in all matters relating to their procedure. The compensation for the land and property taken or damaged under the provisions of this section shall be paid to the owner of such property so taken or damaged, or secured by a deposit set apart in money in the hands of the City Treasurer, subject to the order of such owner, before such property is taken or damaged; Provided, The city may make such payment out of the general fund, if the Board of Commissioners shall deem it advisable, and when the amounts assessed against the property specially benefitted as is herein provided are collected, may repay to the said general fund the amount so advanced, and such payment shall not be a waiver of the city's rights to make such collection.

4. The Board of Commissioners shall have power to cause telegraph, telephone and electric light companies to change the location of their poles; also to cause all erected poles not in use to be taken down and removed. If such companies shall fail to do such things after being notified the city may have the same done at the expense of such companies., The Board of Commissioners shall also have the power to require telegraph, telephone companies and electric light companies to

run their wires under the ground. if, in the wisdom of the board, public interest should so demand.

5. Any person, firm or corporation holding any franchise heretofore or hereafter granted by the city. authorizing the use or occupation for any purpose of any street, avenue or alley in the city, or any portion thereof, and requiring or binding the person. firm or corporation holding such franchise to keep any portion of such street, avenue or alley so used or occupied, or the pavement thereof in repair, or to maintain the same in condition for public travel; or any person. firm or corporation who, under any contract heretofore or hereafter made with the city for the construction, re-construction or repair of the pavement or other improvement of any avenue. street or alley, or any portion thereof, shall be or is bound to keep the same in repair or in good condition for public travel, or to do or to perform any duty relating to the maintenance or repair of such pavement or other improvement, for any term of years mentioned in such contract. who shall be served with a written notice signed by any owner or owners of property abutting such street, avenue or alley, or such portion thereof, such notice to be served by delivering in person or by mailing same by registered mail to such person. firm or corporation, or any officer or agent thereof, at the postoffice address of his residence, and who shall fail or refuse to repair or place in condition for travel according to the terms or requirements of such franchise or contract. the portion of such avenue, street or alley mentioned in such notice which such person, firm or corporation is bound to repair or maintain, within ninety days after date of the service of such notice, shall forfeit to the city the sum of fifty dollars for each day after the expiration of said ninety days until said avenue, street or alley or portion thereof mentioned in said notice. and which such person, firm or corporation is bound to repair or maintain, is repaired and put in good condition for public travel, as required by the terms of such franchise or contract, or until the requirements and terms of such contract are complied with, such sum or sums to be recoverable at the suit of the city or at the suit of any owner of property abutting on said avenue, street or alley, or portion thereof, to the use of the city, in any court of competent jurisdiction. The penalty herein provided shall be in addition to and cumulative of any other penalty, condition or requirement contained in such franchise or contract. In any suit brought under this section any judgment therein recovered may be made a lien upon any sum held by or deposited with the city, or in trust. to guarantee or secure the performance of the conditions of any such franchise or contract.

6. Whenever any franchise to any person, firm or corporation has heretofore been made, or shall hereafter be made or granted by the Board of Commissioners for the use of any street of the city for the purpose or for the exercise of any public privilege or advantage, and the said grant has been or shall hereafter be made upon any conditions named in said grant or things to be performed by the said grantee. and such grant shall contain no condition of forfeiture, yet the breach of any condition so named in any such grant, or any failure on the part

of said grantee to promptly pay any tax whatever assessed by the city, shall be or cause a forfeiture of the said franchise or privilege so granted, as if expressly stipulated for therein, and whenever any such grant has been or shall hereafter be made in consideration of the payment of any bonus, the said payment shall be secured by a prior lien on all property of said grantee, within the city, whether expressly stipulated for or not, and any failure to properly pay such bonus according to the terms of the grant, or any failure to pay any tax of any kind, shall be a cause of forfeiture of the franchise or privilege granted, whether such forfeiture be expressly provided for or not.

ARTICLE VIII.

ORDINANCES.

1. Every ordinance passed by the Board of Commissioners shall be enrolled by the City Auditor or such other officer as may be selected by the board within the next succeeding five days, Sundays excepted, or as soon thereafter as practicable. It shall then be carefully compared with the ordinance and all amendments, if any, by the City Attorney and at least one member of the Board of Commissioners who may be charged with that duty by the Board of Commissioners. If errors exist, they shall be corrected. If no errors exist, or if found, then, after their correction, the Commissioners and City Attorney making the correction shall endorse on the margin the words "correctly enrolled," and give the date thereof and subscribe his name thereto. Every ordinance imposing any penalty, fine, imprisonment, or forfeiture for a violation of its provisions, shall, after the passage thereof, be published in every issue of the official newspaper for three days successively (excluding Sundays), and proof of such publication by the printer or publishers of such newspaper, and before any officer authorized to administer oaths and filed with the City Auditor, or any other competent proof of such publication shall, in all courts be conclusive evidence of the legal publication and promulgation of such ordinances: Provided, That amendments and corrections made in digesting the revision for publication in book form need not be so published. All ordinances, except as above provided, shall be published at least once in some newspaper in the City of Tulsa, and shall take effect as provided in this charter. All ordinances of the city, when printed and published and bearing on the title page thereof, "Ordained and published by the Board of Commissioners of the City of Tulsa," or words of like import, shall be prima facie evidence of their authority, and shall be admitted and received in all courts and places without further proof.

2. The style of all ordinances shall be "Be is ordained by the Board of Commissioners of the City of Tulsa," but such caption may be omitted when said ordinances are published in book form or are revised and digested under the order of the board.

3. The Board of Commissioners shall have power to cause the ordinances of the city to be printed in code form and shall have the same

rearranged and digested as often as to the board may seem advisable.

4. All ordinances of a general nature shall be published at least once in some newspaper in the City of Tulsa.

5. All ordinances, resolutions, rules and regulations now in force in the City of Tulsa, and not in conflict herewith, shall remain in force under this act until altered, amended or repealed by the Board of Commissioners, after this act shall take effect.

6. All ordinances of the City of Tulsa which may be invalid or defective, but which if passed under the provisions of this charter would be valid, are hereby validated as if passed under the provisions of this charter.

ARTICLE IX.

STREET AND SIDEWALK IMPROVEMENTS.

1. When the Board of Commissioners shall deem it necessary to grade, pave, macadamize, gutter, drain or otherwise improve any street, avenue or alley or any part thereof, within the limits of the city for which a special tax is to be levied, as herein provided, said board shall by resolution declare such work or improvement necessary to be done, which resolution shall be adopted by a majority vote of the board, and the passage of such resolution shall be conclusive of the public necessity therefor, and the benefit thereof, and no notice of such action by the board shall be requisite to its validity. Such resolution shall, in general terms, set forth the nature and extent of the improvement or improvements to be made, the section or sections of any public street, avenue or alley to be improved, the material or materials with which the improvements are to be constructed and the method or methods under which the costs of such improvement are to be paid. Such resolution may specify that such improvements may, at the election of the board be constructed from different material and may specify different or alternative methods of making such improvements, and providing for the payment of the costs thereof. Upon the passage of such resolution it shall be the duty of the city engineer to forthwith prepare specifications for such improvement, which specifications shall embrace the different materials or different plans or methods, under which said improvements or part thereof are to be constructed or paid for, if such different materials or alternative plans or methods or construction or payment are specified in such resolution; and such specifications shall also describe the character of bond or bonds required of the successful bidder for the construction of such improvement and the maintenance thereafter, as herein provided. When such specifications have been prepared they shall be submitted to the Board of Commissioners for its approval. The board shall have power to require of the contractor or contractors to whom the work may be let, a bond for the faithful performance of the contract and the maintenance of the work in good condition at the cost of the contractor for a term not less than five years from the completion thereof, and for the maintenance thereof by the contractor. The bonds required by the Board of Commissioners to be executed by the contractor

shall be executed by such contractors to whom the work may be let together with one corporate surety acceptable to said board which shall be a surety company authorized to do business within the State of Oklahoma.

2. The Board of Commissioners shall have power to cause sidewalks, curbs and gutters to be constructed, re-constructed or repaired under and by virtue of the terms of this article and the various subdivisions thereof, either separate or together with other improvements; Provided, That the costs of constructing, re-constructing or repairing sidewalks shall be borne entirely by the owners of property abutting upon said sidewalks; and, Provided Further, That the right of the Board to order the construction, re-construction or repairing of such sidewalks, curbs and gutters shall be exclusive of, and in addition to the powers in this charter conferred upon the Board of Commissioners to order such improvements.

2. The Board of Commissioners is hereby empowered to establish and change the grade of all streets, avenues, alleys or other public places in the city, or part or section thereof, whenever in their judgment the public convenience may require such change of grade; Provided, That no material change of the permanent established grade shall be made without making due compensation to the owners of abutting property, having permanent improvements erected thereon, with reference to the previous legally established grade, and the Board of Commissioners shall prescribe, by ordinance, the method of ascertaining the compensation due to any such property owner whose property is affected by such material change of street grade, and the city shall pay to such owner such compensation so ascertained.

4. The costs of grading, paving, curbing and guttering any street, avenue or alley may be paid in part by the city or in part by the owners of property benefited by such improvement and abutting upon the property, street or alley or portion thereof ordered to be improved, and any resolution or ordinance passed and adopted by the Board of Commissioners declaring the necessity for such construction shall provide what proportionate part, if any, of the costs of such improvement shall be paid by the city, and the proportion of the costs that shall be borne by the owners of property abutting on such street, or alley or part of street or alley so ordered to be made; Provided, That when any person, firm or corporation owns any railroad or street railroad or railroad switch of any kind on such street or alley or portion thereof ordered to be improved, such person, firm or corporation shall pay the whole costs of such improvement between the rails and tracks, and for two feet on each side of the rails of such railroad or street railroad, and the city and abutting property owners shall be relieved of the part of the costs to be paid by such road. The pro rata share of the cost of such improvement payable under the terms hereof by any railroad or street railroad or the owners thereof, together with all costs of collecting the same, shall be a special tax against, and secured by a lien upon the roadbed, ties, rails, fixtures, rights and franchises of such railroad or street railroad and the owners thereof, and whenever a contract shall

be let for any such improvement the Board of Commissioners shall levy a special tax upon the railroad, ties, rails, fixtures, rights and franchises of such railroad or street railroad, for the pro rata share due from such road, for improvement between their tracks and rails and two feet on each side thereof. Said tax shall be levied at or after the time such contract is let or executed and shall become due and delinquent as the ordinance levying the same may specify, and shall be a lien from the time of levying and the proceeds thereof shall be used for the payment of the costs of such improvement. If said taxes be not paid as provided for by ordinance, then collection shall be enforced as the collection of other taxes by advertisement and sale of the property, rights and franchises levied upon; Provided, It shall not be necessary to sell at the same time as for delinquent ad valorem taxes. At any such sale the city tax collector or such other officers as shall be designated by the board shall execute to the purchaser a deed similar to the one executed when the property is sold for ad valorem taxes. Such assessment and lien may also be enforced by suit brought in any court having jurisdiction thereof. The lien provided for shall be a first and prior lien paramount to all encumbrances except taxes, upon the roadbed, ties, rails, fixtures, rights and franchises of the person, firm or corporation or company owning the railroad or street railroads aforesaid.

Provided Further, That when any street, avenue or alley is ordered graded, paved, curbed or guttered as herein provided any person, firm or corporation having right of way or operating a railroad intersecting or crossing such street, avenue or alley so ordered improved, shall bear the entire expense of grading, paving, curbing and guttering and laying sidewalks over and across their tracks and right of way for the full width of such right of way.

5. When specifications have been adopted by the board for contemplated improvements, provided for by the city charter, it shall be the duty of the City Auditor or such other officer as shall be designated by the Board of Commissioners to at once advertise for sealed bids for the construction of such improvements, in accordance with the specifications adopted therefor. Such advertisement shall be inserted in a daily paper of general circulation in the City of Tulsa and shall state the time within which bids may be received as prescribed by the board, which shall be not less than ten days nor more than fifteen days from the insertion of said advertisement. Bids shall be filed with the City Auditor or such other officer as the board shall designate and shall be opened and read in public meeting of the Board of Commissioners. The board shall have the right to accept such bids as it shall deem most advantageous to the city and the owners of the property abutting on the public street or alley named, to be improved, or may reject any and all bids; and where any improvement is ordered on different specifications, and for the construction of work or part thereof, with different material, and under different plans or methods of construction, or payment for such improvement, the board shall have full power after opening bids, to select such methods, plans or materials for making such improve-

ments or any part thereof, as it may deem best and to let the work to such bidder and upon such bid as it may select, subject to the terms thereof. No bid shall be amended, revised or changed after being filed. All bids shall be accompanied by a certified check for five per cent. of the amount of such bid as a forfeit, in case of failure of the bidder or bidders, if successful in securing the work bid for, to enter into a contract and bond as required by this charter, for the performance of such work. When bids for such improvements have been accepted by the board the city shall enter into contract with the contractor or contractors, to whom the work has been let, for the performance thereof, which contract shall be executed in the name of the city by its Mayor and attested by the City Auditor or such other officer as may be designated by the board, with the corporate seal. The contractor or contractors to whom such work has been let, shall execute bond or bonds as may be required by the city board and as herein provided. Said bond or bonds, to be approved by the board if satisfactory. '

6. After excluding the costs of making any improvements between and two feet on each side of the track and rails of railroads or street railroads, and the entire cost of any improvements crossing the right of way of any railroad, which costs are to be assessed against, and wholly paid by the owners of such railroads, as herein provided, and subject to the terms hereof, the City of Tulsa acting by its Board of Commissioners shall have power to assess the whole costs of construction, reconstruction and repairing any sidewalks, curbing, guttering and paving any street, avenue or alley, or making any other improvements ordered under the terms hereof, against the owners of property abutting upon the street, avenue or alley or part or section thereof upon which such improvements are to be constructed, and who are specially benefited thereby, and shall have the power to fix a lien against such property to secure the payment of the portion of such costs assessed against the owners of such property and in apportioning the costs of such improvements against abutting property owners, each quarter block shall be charged with its due proportion of paving, both the front and side streets on such block, and the alley or alleys therein, together with the area formed by street intersection and alley crossing, which cost shall be apportioned among the lots or sub-divisions of such quarter blocks, according to the benefit to each lot or parcel. If any portion of the abutting property shall not be platted into lots or blocks the Board of Commissioners shall include such ground in proper quarter block districts, for the purpose of appraisalment and assessment as herein provided. Provided that in no event shall such costs be assessed against such owners or their property, or liability therefor, finally determined, until after the hearing herein provided for and after the adjustment of equities between such owners; and provided further, that the costs assessed against any property shall be in proportion to the frontage of the property of each owner to the whole frontage of property in such quarter block so ordered to be improved. Provided, that if the application of this rule would, in the opinion of the board, in particular cases, be unjust or unequal it shall be the duty of the board to assess and apportion said costs

in such proportion as it may deem just and equitable, having in view the special benefits in enhanced value to be received by each owner of such property, and the equities of such owners and the adjustment of such apportionment, so as to produce a substantial equality of benefits received by, and burdens imposed upon each owner. The board shall also have power to provide that the proportion of the said costs which may be assessed against the said owners and their property shall bear interest at a definite rate, not to exceed seven per cent. per annum, when the payment thereof is deferred, and shall have the power to include in any assessment which may be made against such owners and their property, reasonable costs of collection, where such costs are incurred, and reasonable attorney's fees, where attorney's fees are incurred.

7. The contract or contracts for such improvements and the bond or bonds having been executed and approved by the board it shall be the duty of the city engineer to at once prepare a written statement which shall contain the names of such persons, firms or corporations or estates that may own property abutting upon the section or sections of the street, avenue or alleys named, to be improved, the number of front feet owned by each, and describing the property owned by each by block or lot, number or otherwise, so describing such property as to identify the same; and such statement shall also contain as estimate of the total costs of such improvement, the proportion and amount of such costs to be assessed against abutting property, the amount per front foot to be assessed against abutting property, and the total estimated amount to be assessed against each owner. Such statement shall be submitted to the board which shall examine the same and correct any errors which may appear therein; but no error, omission or mistake in such statement shall in any manner invalidate any assessment made, or lien or claim fixed thereunder. When such statement has been examined and approved by the board and it shall have determined to assess the costs of such improvements against such property, it shall so declare by resolution, directing notices thereof to be give unto the owners aforesaid by publication for five consecutive days in a daily newspaper of general circulation in the City of Tulsa, and also to mail to such owners a copy of such notice by registered letter deposited in the post office in the City of Tulsa, directed to the address of such owner, if known, or if such address be not known then to the agen or attorney of such person, if known, provided that the registered letter aforesaid shall be deposited in such post office in the City of Tulsa within ten days prior to the date set for the hearing hereinafter provided for; and provided further, that the method herein prescribed for service of notice by registered letter shall be merely cumulative of the service of notice by publication above mentioned; and provided, that in all cases where personal service by registered letter shall not be obtained, said service by publication shall, nevertheless, be deemed valid and binding. The certificate of the City Auditor or such other officer as shall be designated by the board to the effect that the address of such owner or owners or their agent or attorney is unknown to him, and personal service cannot be had upon them, shall be deemed conclusive of such

fact. The notice aforesaid shall state the time of the hearing herein-after provided for, the general character of the improvements determined upon by the board, the street or part thereof to be improved and the proportionate part and amount per front foot of the total cost of the proposed improvement, which it is contemplated shall be assessed against the property and the owners thereof abutting upon such street or alley to be improved. On the date, stated in the notice aforesaid, or any time thereafter, before any special assessment is actually levied, any person, firm or corporation, interested in any property which is claimed to be subject to assessment for the purpose of paying the cost of any improvement, in whole or in part, shall be entitled to a full and fair hearing before said board as to all matters affecting such property, or the benefit thereto, of such improvements or any claim of liability or objection to the making of such improvements of any invalidity or irregularity in any of the proceedings in reference to making such improvements or any other objection thereto. Such person, firm or corporation shall file their objections in writing and thereafter the Board of Commissioners shall hear and determine the same, and full opportunity shall be given to the persons, firms or corporations filing such objections to produce evidence, subpoena witnesses and to appear in person or by attorney and a full and fair hearing thereof shall be given by the said board, which hearing may be adjourned from time to time, without further notice and the Board of Commissioners shall have full power to inquire into and determine the facts necessary to the adjudication of such objects and the ascertainment of special benefits to which such owners by means of such improvements and shall make such order in each case as may be just and proper. Any objections to the regularity of proceedings with reference to the making of such improvements as herein provided or to the validity of any assessment against said property or the validity of any assessment against said property or the owners thereof, shall be deemed waived, unless presented to the time and in the manner herein specified. The time as set for such hearing shall be not less than ten days from the time of the first publication of such notice. When the hearing above mentioned has been concluded the board shall by ordinance assess against the several owners of property, and against their property abutting upon the public street or alley or part thereof ordered to be improved, such proportionate part of the costs of said improvement as by such board may have been adjudged against such respective owners and their property. Said ordinance shall fix a lien upon such property for the respective amounts to be assessed; and shall state the time and manner of payment of such assessment, and said board may order that the said assessment shall be payable in installments, and prescribe the amount, time and manner of payment of such installment, which, however, except as hereinafter provided, shall not exceed ten years, and the payment shall not be deferred beyond ten years from the completion of said improvement, and its acceptance by the city. The said ordinance shall also prescribe the rate of interest to be charged upon deferred payments, not exceeding seven per cent. per annum and may provide for the maturity

of all deferred payments, and their collection, upon default in the payment of any installment of principal or interest. Each property owner, his heirs, assigns or successors, however, shall have the privilege of discharging the whole amount assessed against him or any installment thereof, at any time before maturity, upon payment thereof with accrued interest. Upon the payment by any property owner of his assessment in full, the city shall cause to be executed by its Mayor and duly acknowledged for record a release of the lien of such assessment.

8. When the board shall have reason to believe that the owner or owners of any property may successfully claim the same as exempt from special assessment, it may order that the improvement shall not be made in front of, or abutting on such property, unless the owner or owners shall first make a satisfactory provision for the payment of the amount of the cost which would be assessed against such property, except for such exemption, and such contractor shall not be obliged to make such improvement in front of any property which is exempt from the enforcement of a lien for such improvement, but may omit the construction thereof in front of such property. Subject to the provisions hereof the board may, when deemed just and proper, order improvement to be made on only one side of the public street or alley or section or portion thereof, and may assess the cost of, or a portion thereof, against the property and the owner of property abutting on such side of such street or alley or section or portion thereof.

9. Whenever any error or mistake shall occur in any proceedings, provided for in this charter, it shall be the duty of the board to correct the same, and whenever it shall have been finally determined in any suit that any assessment against any property or its owner or lien against such property fixed or attempted to be fixed under the terms hereof, is, for any reason, invalid, unlawful, or not enforceable, then it shall be the duty of the board to at once proceed to re-assess against such property such proportion of the costs of making such improvements as shall be proper, lawful and just and fix a lien against such property; and such board shall have power, and it shall be its duty, by ordinance or resolution, to adopt such rules and regulations, and to make such orders as shall, in compliance with the law, provide for correcting such mistakes and making a valid re-assessment against such property and fix a valid lien thereon; said board shall have power and it shall be its duty to adopt such rules and regulations for a hearing to the owners of such property before such re-assessment which may be necessary or proper, in order to legally bind such owners and their property, by such re-assessment; and shall have power to adopt all other rules and regulations which may be requisite to a valid re-assessment of such property. Subject to the provisions of this charter the cost of any such improvement or improvements, after deducting the proportion of such costs as may be assessed against any railroad or street railroad, and the proportion of said costs which may have been finally assessed against property abutting upon the street or alley or section or portion thereof, ordered to be improved and against the owners of such property, shall be borne and paid by the city.

10. In addition to the power hereby conferred upon the board, by majority vote, to order the construction of any street improvement or improvements as herein defined, and to assess the costs thereof in whole or in part against the abutting property; whenever the owners of two-thirds of the front feet of property abutting upon any street, avenue or alley, or section or part thereof, shall in writing petition for the improvement thereof, and shall in such petition agree to pay three-fourths of the cost of such improvements in front of their respective property, and of improving intersections of streets and alleys, exclusive of such cost as is payable under the terms hereof, by railroads or street railroads, shall generally designate the nature of the proposed improvements, and the said board shall order the construction of such improvements; provided, only, that before a resolution ordering the said improvement shall be passed by the board it shall be satisfied from the said petition or other evidence as shall be submitted to it, that, exclusive of the costs of said railroad or street railroad at least three-fourths of the whole cost of said improvement can be secured by a valid assessment against property abutting upon the street, or alley, or section, or part thereof, to be improved, or will otherwise be satisfactorily secured. If such petition shall specify any particular kind of material or pavement desired, then the work shall be ordered constructed with that material or pavement only, and bids taken accordingly; provided, that in such case the petition may stipulate the maximum cost per front foot, cubic or square yard at which the work shall be let, and no contract shall be let at a greater cost than is thus stipulated. Where improvements are ordered to be made upon such petition as provided for in this section the method of proceeding in reference thereto, and with reference to assessing the cost thereof against abutting property, shall, subject to the provisions of this section, be in accordance with the terms and provisions of this article. Where improvements are to be made upon such petition as is provided for in this section the work shall not actually be begun until three-fourths of the cost of said improvement, exclusive of the part of the costs to be paid by any railroad or street railroad, shall have been assessed against the property abutting upon the public street, avenue or alley, or section or part thereof, to be improved, in the manner herein before provided in this section; provided, however, that no assessment shall be made, except after the hearing hereinbefore provided, and the costs of such improvement shall be apportioned between the various abutting property owners according to the frontage of their property upon such street, avenue or alley, or section or part thereof, to be improved; provided, that whenever, after such assessment the board shall be of the opinion that an assessment against any property and the lien thereby fixed can not be enforced on account of exemption of such property, the board may direct that such improvement shall not be made in front of such property, or may require the owner of such property to pay or secure the payment of the pro rata amount of such

costs assessed against such property before such improvements shall be made in front of the same.

11. When any of the public improvements provided for in this article are ordered to be made, the cost, or part thereof, which may be assessed against abutting property and against railroads and street railroads, as herein provided, and such cost so apportioned and assessed against the abutting property as provided for by this charter, and the lien as established and fixed by the Board of Commissioners in favor of the contractor as herein provided for, such abutting property shall be held liable for the payment of such costs so assessed against it, and the city shall not be responsible or liable for any part of such costs so assessed and taxed against such abutting property, and shall not be liable for any part or portion of the costs of any street improvements, except when the city through the board shall have obligated itself to pay a part of such costs and provided in this charter; the lien provided for herein to be fixed by the board against the respective owners and their property abutting upon any street, avenue or alley, or section or part thereof, may be evidenced by assignable certificates or tax bills against abutting property, railroad or street railroad, to be issued to the contractor by the City of Tulsa, and the board shall prescribe the form and terms of such certificate. The recital in such certificates that the proceedings with reference to making such improvements have been regularly had in compliance with the terms hereof, and that all prerequisites to the fixing of the lien and claim, evidenced by such certificate have been performed, shall be prima facie evidence of the facts so recited, and no other proof thereof shall be required, but in all courts the said proceedings and prerequisites shall, without further proof, be presumed to have been had or performed. Such certificates shall be executed by the Mayor and attested by the City Auditor or such other officer as shall be designated by the board with the corporate seal. The passage by the board of an ordinance finally assessing against any property the cost or part thereof, or in making and fixing a lien upon such property shall operate as notice of such assessment, and lien against all creditors of the owners of such property and the purchaser thereof and the lien thereby fixed, without further record or proceeding be effective against all such creditors or persons.

12. The City shall have power to borrow money on its credit, and the board may by ordinance authorize the issuance by the city of its negotiable coupon bonds for the purpose of paying the city's part of any such permanent street improvements as embraced in the terms of this article. Such bonds to be within the limits of indebtedness prescribed by the constitution and this charter. Such bonds shall bear interest at the rate of not more than five per cent per annum, payable in semi-annual installments, and the principal thereof shall be payable in not more than twenty years from their date. Such bonds shall be authorized and executed in accordance with the terms of this charter with reference to the issuance of other bonds; provided, that no such bonds shall be issued unless the question of such issue shall first be

submitted to a vote of the qualified tax payers, and the same shall be approved at such election in accordance with the provisions of the Constitution and of this charter, and the Board of Commissioners shall provide in any resolution or ordinance authorizing such bond issue, for the levying of an annual tax sufficient to meet the accrued interest, and provide a sinking fund for the payment and retirement of such bonds, and the bonds provided for in this article shall be sold by the city for not less than par. Such bonds shall not be sold by the City until registered and approved in accordance with the requirements for other bond issues by the city.

13. All contracts heretofore entered into by the City of Tulsa or which may hereafter be entered into by the city, and before the provisions of this charter become effective, and all ordinances made in relation to such contracts shall be given full force and effect under the laws and ordinances in force at the date of the making of such contracts, and such improvements shall be carried forward and completed in accordance with such laws and ordinances, and that all costs of such improvements shall be assessed by the Board of Commissioners against the abutting property owners and other persons, firms, or corporations made liable for the payment of such costs under and in accordance with the provisions of the laws and ordinances then in force. The Board of Commissioners created and authorized by this charter are hereby authorized and directed, and it is hereby made their duty to do and perform or cause to be done or performed, all things which, by such existing laws and ordinances of such city, the City Council of such city and the officers thereof acting thereunder are now authorized or permitted to do, in order to carry into effect the terms of such contract, and to assess the costs of improvements against such property, and to provide for the collection of such assessment, and to provide for the issuance of assignable certificates therefor, and to do and perform any other act or thing which may be necessary under the said existing laws and ordinances of said city, to give effect to said contracts and to provide for the enforcement thereof. The fact that more than one parcel or lot of land, the property of the owner or jointly owned by two or more persons, firms or corporations having been assessed together in one assessment shall not invalidate the same, or the lien thereof. The costs of any such improvements assessed against any property, together with all costs and reasonable expenses in collecting the same, including reasonable attorney's fees when incurred, shall be secured by a lien upon such property superior to all other liens, claims or title, except city, county and state taxes, and such lien may be enforced either by suit in any court of competent jurisdiction or by sale in the same manner as far as applicable, as sales are authorized to be made by the City of Tulsa for the non-payment of taxes; provided, that it shall not be necessary to sell at the same time as for delinquent ad valorem taxes, and the board may by resolution or ordinance make such rules and regulations, not inconsistent with the charter, as it may beem necessary to provide for the speedy collection of such assessment for improvements. Any error or omission in selling prop-

erty or designating the names of owners or any other error or omission may be corrected at any time by the board or at the suit of any interested party. In any suit brought under the provision of this section it shall be proper to join as defendants two or more property owners who are interested in any single improvement or any single contract for such improvement.

14. At any time within ten days after hearing in section seven of this article provided for has been concluded, any person or persons, corporation or corporations, having an interest in any real estate which may be subject to assessment under this charter, or otherwise, having any financial interest in such improvement or improvements, or in the manner in which the cost thereof is to be paid, who may desire to contest on any ground the validity of any proceeding that may have been had with reference to the making of such improvements, or the validity in whole or in part, of any assessment lien fixed by said proceedings, may institute suit for that purpose in any court of competent jurisdiction. Any person or persons, corporation or corporations, who shall fail to institute such suit within a period of ten days, or who shall fail to diligently prosecute such suit in good faith to final judgment, shall be forever barred from making any such contest or contests, and this estoppel shall bind their heirs, successors, administrators and assigns. The City of Tulsa, or the person or persons to whom the contract has been awarded shall be made defendants in such suit, and any other proper parties may be joined therein. There shall be attached to plaintiff's petition an affidavit of the truth of the matter therein alleged, except such matters as are alleged on information and belief, and that such suit is brought in good faith, and not to injure or delay the city or contractor, or any owner of real estate abutting on the improvement. Unless the provision of this section are complied with by plaintiff or plaintiffs, such suit shall be dismissed on motion of any defendant, and in that event plaintiff or plaintiffs shall be barred and estopped to the same extent as if suit had not been brought. In any case where a suit is brought as provided for in this section then the performance of the work may be suspended at the election of either the city or the contractors until such suit shall be finally determined in the court of original jurisdiction or any appellate court to which the same may be taken by appeal or writ of error; provided, that any appeal or writ of error shall be perfected within thirty days from the adjournment of the term of court of original jurisdiction at which final judgment was rendered in such suit; and, provided, that no appeal or writ of error to review the judgment of such court, may thereafter be taken or sued out by either party.

SIDEWALKS.

SIDEWALKS. Section 1, The Board of Commissioners shall have power in their discretion by resolution passed by majority vote to order the construction, re-construction or repairing of sidewalks as therein provided along or upon any street, avenue, public place, alley or square, or part or section thereof, within the city or in front of any property

abutting upon the same. No notice of the passage of such resolution shall be necessary. Such resolution shall in general terms describe the sidewalks to be constructed, re-constructed or repaired, material of which it is to be constructed, re-constructed or repaired, the street, avenue, alley, square or place or part of section thereof along which said sidewalk is to be constructed, re-constructed or repaired. Upon the passage of such resolution it shall be the duty of the city engineer to forthwith prepare and present to the said board plans for the said sidewalks, or repairs for same, detailing the nature of construction, re-construction or repair thereof, and the material or materials of which the same are to be constructed, re-constructed or repaired. If satisfactory the board shall approve the said plans and the same shall remain on file in the office of the city engineer. Upon the approval of the said plans the city engineer shall at once prepare and file with the board a statement containing the name or names of the owner or owners of property abutting upon the street, avenue, alley, public place or square, or part or section thereof, where sidewalks are ordered to be constructed, re-constructed or repaired, and a brief description of the property of each owner, which may be by lot or block number or any other description which shall be sufficient to identify the same, together with an estimate of the cost of such sidewalks or the repair of same in front of the property of each owner, exclusive of the cost of grading and excavating. Upon the filing of such statement it shall be the duty of the City Auditor or such other officer as shall be designated by the board to publish in a daily newspaper of general circulation within the City of Tulsa, a notice to the owner or owners of the property in front of which the sidewalk or sidewalks are to be constructed, re-constructed or repaired, which notice shall briefly recite the fact that sidewalks have been ordered constructed, re-constructed or, repaired by the board, and stating the street avenue, alley, public place or square, or section or part thereof, along which the same are ordered to be constructed, re-constructed or repaired, and that plans and specifications for such work have been adopted by the board and are on file in the office of the City Engineer, and notifying the owners of property abutting upon such proposed sidewalk or sidewalks to construct, re-construct or repair same, in accordance with such resolution and specification, within thirty days of the publication of such notice. The Board shall have power to adopt rules and resolutions for giving additional notice to the owner or owners of such property in such manner as may by such board be prescribed, or for personal notice upon property owner, but any such notice shall be in addition to and cumulative to the advertisement provided for, and service of notice by such advertisement shall be deemed sufficient without further or additional notice. The owner or owners of property abutting upon the street, avenue, alley, public place or square, or part or section thereof, along which sidewalks are ordered to be constructed, re-constructed or repaired shall, within thirty days from the publication of such notice, construct, re-construct or repair the said sidewalk or sidewalks in accordance with the specifications at his or their own cost and expense, except the cost of exca-

vating or grading, which shall be borne by the city. If the owner or owners of any property in front of which sidewalks are ordered to be constructed, re-constructed or repaired under the terms hereof shall not within thirty days of the publication of such notice so construct, re-construct or repair such sidewalk or sidewalks the board shall have power by resolution, and it shall be their duty, to order the construction, re-construction or repairing by the city and cause the same to be constructed, re-constructed or repaired, either by the city or to let the work by contract under such rules and regulations as may be adopted by the board and with or without competitive bidding at the discretion of the board. Whenever the city shall have constructed, re-constructed or repaired or caused to be constructed, re-constructed or repaired, any sidewalk as herein provided, the board shall have power to assess the whole costs thereof, except the cost of excavating and grading, which shall be borne by the city, against the property abutting upon the street, avenue, alley, public place or square upon which such sidewalks shall have been constructed, re-constructed or repaired, and the owner or owners thereof, provided that no assessment shall be made against any property or its owner or owners unless the said property shall be specially benefitted by the construction, re-construction or repair of such sidewalk, nor for any sum in excess of the special benefit which shall accrue to said property and its owner or owners from the construction, re-construction or repair to the said sidewalk. When such sidewalk is ordered to be constructed, re-constructed or repaired in front of the property of one owner subject to the terms hereof the cost of such sidewalk shall be assessed against the property and the owner thereof. Where sidewalks are ordered to be constructed, re-constructed or repaired in front of the property of more than one owner or in front of more than one lot along any street, avenue, public place, alley or square, or part or portion thereof, the costs of construction, re-construction or repair of the said sidewalk in front of the property of each owner shall be assessed against such owner and his property separate and a separate liability against such owner declared. No assessment for the costs of such sidewalks shall be made against any property or its owner until the board shall have first so declared by resolution directing notice thereof to be given to the owner or owners of such property. Such notice shall be given by advertising the same in a newspaper of general circulation in the City of Tulsa, for three consecutive days, and also by mailing to said owner or owners a copy of such notice by registered letter deposited in the post-office in the City of Tulsa directed to the address of such owner, if known, or if the address be not known, then to the agent or attorney of such owner or owners, if known; provided, that the letters aforesaid shall be deposited in the post-office not less than five days prior to the date stated for the hearing hereinafter mentioned, and, provided further, that the method herein prescribed for service of notice by registered letter shall be merely cumulative of notice of publication above mentioned; provided, that in all cases where personal service of notice shall not be obtained the notice by publication shall be valid and binding. The

notice aforesaid shall state the time of the hearing hereinafter mentioned, and the general character of the sidewalk ordered to be constructed or repaired, the street, avenue, public place, alley or square, or part or section thereof along which the same has been constructed, re-constructed or repaired, and that the costs of the said work is proposed to be assessed against the owner or owners of property abutting thereon, and the date for the hearing. Said hearing shall not be less than one week from the time of the first publication of such notice. On the date set in the notice aforesaid and at any time thereafter before an assessment is actually levied, any person or corporation interested in any property which may be claimed to be subject to assessment for the purpose of paying the costs of such sidewalk shall be entitled to a full and fair hearing before such board as to all improvements affecting such property, or the benefit thereof of such construction, re-construction or repairing of such sidewalks, or as to any liability therefor, or as to any irregularity or invalidity of the proceedings in regard to the construction, re-construction or repair of such sidewalks, or any other objection thereto. Such objection shall be filed in writing, stating the nature thereof, and full opportunity shall be given to the person or corporation filing the same to produce evidence, subpoena witnesses and to appear in person or by attorney, and a full and fair hearing thereof shall be given by the board, which hearing may be adjourned from time to time without further notice. The board shall have power to inquire into and determine all facts necessary to the adjudication of the said objection and the ascertainment of such special benefits to the owners by reason of the construction, re-construction or repairing of such sidewalks, and shall make such order in each case as may be just and proper. Any objection to the regularity of the proceedings with reference to the construction, re-construction or repairing of such sidewalk or to the validity of any assessment or the determining of liability against such property or its owner shall be deemed waived, unless presented at the time and in the manner herein specified. When the hearing above mentioned has been concluded the board shall, by ordinance, assess against the owner or owners of the property and against their property abutting upon the sidewalk so constructed, reconstructed or repaired the cost of constructing, re-constructing or repairing such sidewalks in front of or along the property of each owner, and declare a personal liability against such owner or owners thereof. If it shall have been determined by the board upon such hearing that such owner or owners and their property have been benefitted in enhanced value of such property in an amount at least equal to such cost; but, if in any case it shall have been determined upon such hearing that the property of any owner is not benefitted in enhanced value by such construction, re-construction or repair of such sidewalk, then no assessment shall be made against the property of such owner; but if after such hearing it shall be determined by such board that such property has been benefitted in enhanced value in any amount less than the cost of the construction, re-construction or repair-

ing thereof, then the board shall assess against the said owner and his property only such amount as shall equal the benefit received by such owner and his property. The ordinance making the said assessment shall fix a lien upon the property of each owner or owners and declare the owner or owners thereof to be personally liable for the respective amounts which may be against them assessed, and shall state the time at which the said assessment shall be paid, which shall not be longer than sixty days from the date of making the same. Such assessment shall bear interest from the date of making the same until paid at a rate of not to exceed eight per cent per annum. The amount assessed under the terms hereof against any property or the property owner thereof shall be secured by a lien upon such property and shall constitute a personal liability against the owner or owners thereof in favor of the City of Tulsa, and the said liability and lien may be enforced either by suit in any court of competent jurisdiction or by sale of such property of such owner or owners in the manner provided in this charter for the sale of property for other taxes. Such assessment shall include all costs and expenses of collection of same, where such costs are incurred, including reasonable attorney's fees, where such attorney's fees are incurred. In all cases where sale of any property shall be made for any payment of any assessment, in the manner provided for the sale of property for payment of other taxes, such sale shall be made by the City Auditor or such other officer as may be designated by the Board of Commissioners, a deed executed by the said City Auditor or other officer as shall be designated by the Board of Commissioners, and to recite in the deed of such City Auditor or other officer as shall be designated by the board all legal prerequisites to such sale have been complied with, shall be prima facie evidence of the truth of the facts so recited, which facts shall in all courts of law and equity be presumed to be true without further evidence thereof.

ARTICLE III.

RECALL OF ELECTIVE OFFICERS.

Section 1. The holder of an elective office may be removed at any time by the qualified voters of the City of Tulsa. The procedure to effect the removal of an incumbent of an elective office shall be as follows: A petition signed by the qualified voters of said city, equal in number to at least 35 per cent of the entire vote cast for candidates for the office of Mayor on the final ballot at the last preceding general municipal election, demanding the election of a successor of the person sought to be removed, shall be filed with the City Auditor; provided, that the petition sent to the Board of Commissioners shall contain a general statement of the grounds for which the removal is sought. The signatures to the petition need not all be appended to one paper, but each signer shall add to his signature his place of residence, giving the street and number. One of the signers of each such paper shall

make oath before an officer competent to administer oaths that the statements herein made are true, and that each signature to the paper appended is the genuine signature of the person whose name purports to bethereunto subscribed. Within ten days from the date of filing such petition the City Auditor shall examine, and from the list of qualified voters of said city, ascertain whether or not said petition is signed by the requisite number of qualified voters, and he shall attach to said petition his certificate showing the result of said examination. If by the Auditor's certificate, the petition is shown to be insufficient it may be amended within ten days from the date of said certificate. The City Auditor shall, within ten days after such amendment, make like examination of the amended petition, and if his certificate shall show the same to be insufficient, it shall be returned to the person filing the same, without prejudice, however, to the filing of a new petition to the same effect. If the petition shall be found to be sufficient, the City Auditor shall submit the same to the Board of Commissioners without delay.

2. If the petition shall be found to be sufficient, the Board of Commissioners shall order and fix a date for holding the said election, not less than thirty days nor more than forty days from the date of the Auditor's certificate to the Board of Commissioners that a sufficient petition is filed.

3. The Board of Commissioners shall make or cause to be made, publication of notice and all arrangements for holding of such election, and the same shall be conducted, returned and the result thereof declared in all respects as are other city elections, and a majority of all the votes which shall be cast at such election shall be necessary to elect. In the event no candidate shall receive such majority at the first election a second election shall be held in accordance with the provisions of Article III. hereof. The successor of any officer so removed shall hold office during the unexpired term of his predecessor. Any person sought to be removed may be a candidate to succeed himself, and unless he requests otherwise in writing the City Auditor shall place his name on the official ballot without nomination. In any such removal election the candidate receiving the highest number of votes shall be declared elected. At such election if some other person than the incumbent receives the highest number of votes, the incumbent shall thereupon be deemed removed from the office upon the qualification of his successor. In case the party who receives the highest number of votes should fail to qualify within ten days after receiving notification of election, the office shall be deemed vacant. If the incumbent receives the highest number of votes he shall continue in office.

ARTICLE XI.

MISCELLANEOUS PROVISIONS.

1. The City of Tulsa, acting through the Board of Commissioners,

shall have power to do by day labor, under municipal direction, any work which may become advisable or necessary to be done.

2. In all work done by or for the city, either by day work or by contract, eight hours shall constitute a day's work; and no employe of the city on work for the city, or employe of any contractor or subcontractor of such work, shall be required to work longer than eight hours in any one calendar day; provided, that this section shall not apply to the fire or police department or to employes engaged in clerical work for the city; and, provided further, that this section shall not be construed to apply to any contract entered into by the city prior to the passage of this act; provided that in case of emergency, an employe may be required to work longer than eight hours, but when required so to work longer than eight hours such employe shall be paid for such overtime at the rate of one and one-half times the rate such employe is paid for his labor during the eight hours.

3. The personal and real property of all persons owing any taxes to the City of Tulsa is hereby made liable for all tax owing by such person, whether the same be due upon personal or real property, or upon both.

4. The Board of Commissioners shall have power to provide for taking an enumeration of the inhabitants of the city. And it shall be the duty of the Board of Commissioners by resolution to appoint a commissioner, who shall supervise such enumeration, whose compensation, together with all the expenses of such enumeration, shall be paid in such manner as the Board of Commissioners may provide.

5. No property of any kind, church, school or otherwise in the City of Tulsa shall be exempt from any of the special taxes and assessments authorized by this charter for local improvements.

6. The fiscal year of the City of Tulsa shall begin and end at 12:00 o'clock, noon, on the first day of July in each year.

7. All bonds, contracts, or other instruments requiring the assent of the city shall be signed by the Mayor or the acting Mayor, and attested by the City Auditor, and all legal process against the city shall be served upon the Mayor, or acting Mayor.

8. In addition to the other modes of collection anywhere in this act provided, all taxes due the city may be collected by an action of debt, and liens on real estate may be foreclosed in any court having jurisdiction. The assessment rolls relating to such taxes shall be taken as prima facie evidence of the statements made therein, and the city shall have authority to become the purchaser at all sales of property for taxes due it, under judgment or otherwise. It shall be the duty of the Mayor to attend such sales, to make such purchases if they be necessary, or to empower some other person to do so on behalf of the city.

9. Before the City of Tulsa shall be liable for damages of any kind the person injured, or some one in his behalf, shall give the Mayor or City Auditor notice in writing of such injury within thirty days after the same has been received, stating specifically in such notice when, where and how the injury occurred and the extent thereof. The

City of Tulsa shall never be liable on account of any damage or injury to person or property arising from or occasioned by any defect in any public street, highway or grounds, or any public work of the city, unless the specific defect causing the damage or injury shall have been actually known to the Mayor or City Engineer by personal inspection for a period of at least twenty-four hour prior to the occurrence of the injury or damage, unless the attention of the Mayor or City Engineer shall have been called thereto by notice thereof in writing at least twenty-four hours prior to the occurrence of the injury or damage and proper diligence has not been used to recitfy the defect after actually known or called to the attention of the Mayor or City Engineer as aforesaid.

10. It shall not be necessary in any action, suit or proceeding in which the City of Tulsa is a party, for any bond, undertaking or security to be executed in behalf of said city, but all such action, suits, appeals, or proceedings shall be conducted in the same manner as if such bond, undertaking or security had been given, and said city shall be liable as if such obligation had been duly given and executed.

11. The property, real and personal, belonging to said city shall not be liable to be sold or appropriated under any writ of execution or cost bill, nor shall the funds belonging to said city, in the hands of any person, be liable to garnishment on account of any debt it may owe or funds it may have on hand due any person, nor shall the city or any of its officers or agents be required to answer to any writ of garnishment on any account whatsoever, nor shall said city be liable to the assignee of any wages of any officer, agent or employe of said city, whether earned or unearned, upon any claim or account whatsoever, and as to the city any such assignment shall be absolutely void.

12. Whenever, in the opinion of the Board of Commissioners, any building, fence, shed, awning or structure of any kind, or part thereof, is liable to fall down and injure persons or property, or whenever any barbed wire fence is now or shall be stretched along the street line, the Board of Commissioners may order the owner or agent of same, or occupants of the premises, to take down and remove the same within such time as it may direct; and may punish by fine and imprisonment, or either, all persons failing so to do. The Board of Commissioners shall have the additional power to remove the same at the expense of the city on account of the owner of the property, and assess the expenses thereof, including condemnation proceedings, as a special tax against the land, and the same may be collected as other special taxes provided for in this charter, or by suit in any court of competent jurisdiction.

13. The Board of Commissioners shall have full power to condemn all dangerous buildings or obstructions of any kind, and may provide regulations therefor by ordinance.

14. All writs, subpoenas, or other process issuing out of the city court, shall run in the name of the City of Tulsa, and may be executed and served by the Chief of Police or his deputies, or policemen of said city anywhere in Tulsa County, Oklahoma.

15. In all cases where, by any of the provisions of this act, or by ordinances in pursuance thereof, a person is required to obtain a license for any calling, occupation, business or vocation, and has, on complaint before the Municipal Court, been adjudged guilty of violating any rule, regulation or ordinance of the city in relation thereto, said court, in addition to the punishment to be imposed therefor, may suspend or revoke the license so granted.

16. The term "officer" as used in this charter, shall apply only to those officers who are elected by the people, or are appointed or confirmed by the Board of Commissioners for a fixed and definite period, and the same does not include policemen, except the Chief of Police, and does not include other agents or employees of said city. All city officers and employees shall enter into such bond for the faithful performance of their duties as the Board of Commissioners may require, by ordinance or resolution, and shall perform such other and further duties as the Board of Commissioners may from time to time prescribe.

17. All qualified electors of the State who shall have resided for six months immediately preceding the election within the limits of said city shall have the right to vote for Mayor and all other elective officers of said city, but in all elections to determine the expenditure of money, or assumption of debt or levy special taxes, only those shall be qualified to vote who pay taxes on property in said city, such qualifications to be ascertained by an inspection of the assessment rolls.

18. The Board of Commissioners shall have the right to remit, in whole or in part, any fine or penalty belonging to the city, which may be imposed under any ordinance or resolution passed in pursuance of this act.

19. No lien of any kind can ever exist against the public halls, parks or public works of the City of Tulsa. All sub-contractors, material men, mechanics and laborers upon any public works of the City of Tulsa are hereby required to notify the city of all claims they may have on account of such work against the city, and when such notice has been given the city shall retain an amount from any funds due the contractors sufficient to satisfy all claims; provided, that such notice may be given at any time after such indebtedness becomes due and before final settlement; and, provided further, that no contractor or sub-contractor shall issue any time checks on or on account of any public works of said city.

20. The Board of Commissioners shall require good and sufficient bonds of all contractors, with at least two good and sufficient sureties, who shall be residents of the State of Oklahoma. No non-resident of the State shall ever be received as surety on any bond payable to the City of Tulsa, except such guarantee companies as may be satisfactory to the Board of Commissioners, and in all cases at least one of the sureties must be a resident of Tulsa County, Oklahoma. When bondsmen are not residents of Tulsa County such proof of their solvency may be required as the Board of Commissioners may deem necessary.

21. All appropriations made or set apart for the payment of any

interest or sinking fund, or both, shall under no circumstances ever be diverted to any other purpose.

22. All questions arising in administering said city government, and not provided for in this act, shall be governed by the State law in such cases made and provided.

23. This act shall be deemed a public act, and judicial notice shall be taken thereof in all courts and places, without the same having been pleaded or read in evidence.

24. The Board of Commissioners shall have the power to prohibit the working of State convicts within corporate limits of the city.

25. The Board of Commissioners shall have power to prohibit minors from going and being on the public streets and in public places in the City of Tulsa between the hours of 9 o'clock P. M. and 4 o'clock A. M. at night, without the consent of their parents or guardians.

26. The Board of Commissioners are hereby empowered and authorized to exempt from municipal taxation for a period of not exceeding five years, manufacturing establishments and public utilities, as an inducement to their location in the city.

27. All elections shall be held in the manner provided by the general election laws of the State of Oklahoma, as far as the same may be applicable, and in other respects in accordance with the provisions of this charter and the ordinances of the city made by authority hereof. It shall be the duty of the Board of Commissioners to divide the city into a convenient number of election districts or precincts, and at least five days before any election shall be held in the city, the Board of Commissioners shall provide for a polling place in each of such election districts or precincts, and shall give notice for not less than five days in a daily newspaper in the City of Tulsa of the selection of such polling places.

28. The judges of election shall be qualified voters in the city and the election district or precinct where they are to act, and all election boards, clerks, judges and other officers of election shall, as provided for in the general election laws of the State of Oklahoma, and shall perform the duties imposed by such election law; provided, that the election returns shall be made to the Board of Commissioners of the city, and the duties required to be performed by the County Clerk shall be performed by the City Auditor, and the duties required to be performed by the Board of County Commissioners shall be performed by the Board of Commissioners of the City of Tulsa, and the duties to be performed by the Sheriff shall be performed by the Chief of Police of the City of Tulsa; and the city officers are hereby required to perform the various duties herein provided in the State Election Laws prescribed for the county officers, in whose stead they act, subject to the same penalties and provisions prescribed by said Election Laws as to such officers, all General election days shall be holidays in the city.

29. Every person elected or appointed to any office in the City of Tulsa shall, before he enters upon his duties, take the official oath prescribed by the State Constitution, and such additional oaths as the

board of Commissioners may prescribe to secure a faithful performance of duty.

Any officer ceasing to possess any of the qualifications required of him at the time of his election shall thereby vacate his office, and the same shall be filed as herein provided.

30. All rules and regulations and ordinances concerning the police and fire departments of the City of Tulsa in force when this act goes into effect, and which are not in conflict with this act, shall be and remain in force until altered, amended or repealed by the Board of Commissioners; and all such rules and regulations and ordinances as may be in conflict with this act are hereby repealed. No person shall be eligible to appointment, or to be appointed, or serve as a policeman, officer of police or fireman of the City of Tulsa who shall have been convicted of any offense, the punishment of which may be confinement in the State Penitentiary; nor shall any person be appointed who is not shown to be of good character, or who can not read and write the English language, or who does not possess ordinary physical strength and courage. All policemen and firemen of the City of Tulsa shall hold their positions during good behavior, and shall not be removed from same except for such cause as in the opinion of the Board of Commissioners renders them unfit to remain in the service of the city, and after written notice, giving the grounds for such discharge or removal and an opportunity to be heard on such charges or reasons.

The Board of Commissioners shall have the authority to make provision for the care and sustenance of policemen and firemen who have been disabled while in the active discharge of their duties in the service of the city, or who after long and continuous service have become, by reason of old age and infirmities, incapacitated to discharge their duties. After January 1, 1910, all policemen and firemen who shall have served continuously for ten consecutive years and who have not been found guilty of any charges for violation of any of the rules of said department, shall each receive as salary the sum of \$2.50 per month in addition to their regular salaries; for fifteen years of such service, \$5 per month in addition to their regular salaries; for twenty years of such service, \$7.50 per month in addition to their regular salaries; for twenty-five years of such service, \$10 per month in addition to their regular salaries.

32. It shall be the duty of the Mayor, as soon as this act shall take effect, to order an election on the sixth Tuesday after this charter takes effect, at which election a Mayor, City Auditor and four Commissioners shall be elected at large in the City of Tulsa. If for any reason the Mayor shall fail to make such call for said election within ten days after this act becomes a law, then it shall be the duty of the County Judge of Tulsa County to issue said call for said election and to give twenty days' notice thereof. Said election shall be held according to the laws of the State of Oklahoma applicable thereto, except where the same may be in conflict with the provisions of this charter. The judges and clerks of said election shall be qualified voters of the City of Tulsa, and shall receive such compensation and perform such duties

as may be provided by law and ordinances of the City of Tulsa. In case such judges so appointed fails or refuses to act, or in case no judge of election appears to open the polls the attending qualified voters shall appoint such officers, who shall have the same powers and perform all the duties of presiding judges of election. But in such cases such judges shall, in their return, certify that the judges of election acting as such, were duly elected by the electors present, naming at least three such qualified electors present and voting. The Mayor, City Auditor and four Commissioners elected at said election, as provided herein, shall hold their respective offices, perform their duties and receive their pay until the first Tuesday in April, A. D. 1910, and until their successors are elected and qualified. There shall be held on the first Tuesday in April, A. D. 1910, and every two years thereafter, unless otherwise provided by law, a regular election for a Mayor, City Auditor and four Commissioners, who shall perform their duties and discharge the obligations conferred upon them by this act and who shall retain their offices for two years and until their successors are elected and qualified.

33. It shall be unlawful for any person to incumber or obstruct any street, highway or grounds of the City of Tulsa with any posts, boxes, lumber, fences or with anything else. Any person violating the provisions of this section shall be subject to a fine in any sum in the Municipal Court, not exceeding two hundred dollars, and each and every day that any obstruction shall exist shall constitute a separate and distinct offense.

34. No officer or employe of the City of Tulsa shall ever accept, directly or indirectly, and gift, favor, privilege or employment from any public utility corporation enjoying a grant of any franchise, privilege or easement from said city, during the term of office of such officer, or during employment of such employe, except as may be authorized by law or ordinance. Any officer or employe of the city who shall violate the provisions of this section shall be adjudged guilty of a misdemeanor and shall be imprisoned in the county jail not less than three months nor more than twelve months, or shall be fined not less than five hundred dollars nor more than one thousand dollars, or may be punished with both such fine and imprisonment, and shall be subject to removal from office.

35. No contract shall be entered into by the Board of Commissioners until after an appropriation has been made therefor, nor in excess of the amount appropriated, and all contracts shall be made upon specifications, and no contract shall be binding upon the city unless it has been signed by the Mayor and countersigned by the Auditor, and the expense thereof charged to the proper appropriation; and whenever the contract charged to any appropriation equals the amount of said appropriation, no further contracts shall be countersigned by the auditor.

All contracts of whatever character, pertaining to public improve-

ments, or the maintenance of public property of said city, involving an outlay of as much as five hundred (\$500) dollars, shall be based upon specifications to be prepared and submitted to and approved by the Board of Commissioners; and after approval by the Board of Commissioners, advertisement for the proposed work, or matter embraced in said proposed contract, shall be made, inviting competitive bids for the work proposed to be done, which said advertisement shall be published in a daily newspaper not less than five times. All bids submitted shall be sealed, shall be opened by the Mayor in the presence of a majority of the Board of Commissioners, and shall remain on file in the office of the City Auditor and be open to public inspection for at least forty-eight hours before any award of said work is made to any competitive bidder.

The Board of Commissioners shall determine the most advantageous bid for the city, and shall enter into contract with the party submitting the lowest secure bid; and if, in the opinion of the Board of Commissioners, none of said bids are satisfactory, then the Board of Commissioners may have the said work done by day labor, and a detailed statement of all such work done by day labor, showing the cost of same, shall be filed with the Board of Commissioners. Pending the advertisement of the work or contract proposed, specifications therefor shall be on file in the office of the City Auditor, subject to the inspection of all parties desiring to bid.

36. In addition to all powers elsewhere granted in this charter, the City of Tulsa shall have power to prohibit the erection, construction and maintenance of oil houses, where oil is stored, or oil yards in any portion of the city, and to prohibit the erection of such oil houses or oil yards where oil is stored within certain distances of the main lines of any railroad, and to prohibit the erection and location of oil houses and the storing of same in any part of the residence district of the city, and to authorize the inspection of all such oil houses and oil yards; and to require the building or construction of oil houses out of fire-proof material. To require the construction of suitable fire-escapes on or in hotels, lodging houses or other buildings, whether now built or hereafter to be built; to regulate the construction of all passenger or freight elevators used in buildings, and to provide for their inspection, and to pass all suitable laws necessary for the safety and protection of life or property in the use of such elevators; to regulate and prohibit the construction of livery stables or blacksmith shops in the residence portion of the City of Tulsa; to prohibit the erection or construction of any building or structure of any kind within the City of Tulsa without a permit first having been issued by the city for the construction or erection of such building or structure, and to authorize a fee to be charged for such permit; to authorize the inspection by the city of all buildings or structures during the progress of their construction, to require that all buildings shall be constructed in con-

formity to the building regulations which may exist in said city, or which shall hereafter be passed.

37. The Board of Commissioners shall have power to summon and compel the attendance of witnesses, and the production of books and papers before them whenever it may be necessary for the more effective discharge of their duties. All process shall be signed by the Mayor and attested by the City Auditor, and shall be served by the Chief of Police or any police officer of the said city.

38. In the event any part, article, section or subdivision of this act shall be held to be unconstitutional or invalid for any reason, such holding shall not be construed to invalidate or impair the remainder of the act, but the same shall continue in full force and effect notwithstanding such holding.

39. Whenever any power, authority or right is conferred herein upon the City of Tulsa, or upon the Board of Commissioners, and provisions are incorporated herein for the exercise thereof in different ways, each of such provisions shall be held and construed to be cumulative of the other referring to the same subject, and in such cases the Board of Commissioners shall be empowered to use its own discretion with respect to which of such powers it shall exercise.

40. All elections for the approval or rejection of bond issues, the granting of franchises and the levying of special taxes, wherein such matters shall be submitted to a vote of the taxpayers of the city, shall be held at a general or special election in said City of Tulsa, and the elections held to elect members of the Board of Commissioners shall be the only elections in said City which shall be denominated general elections.

41. Within six months after the taking effect of this charter, the Board of Commissioners shall make a settlement with the School Board of the School District of Tulsa, and shall pay over to the treasurer of said board any and all funds belonging to said school district, remaining in the hands, or under control of the Board of Commissioners of the City of Tulsa; and shall make, execute and deliver to the said school board, a deed, or deeds, of any and all school property, belonging to the said school district, which may now be in the name of the City of Tulsa; upon the school board assuming and agreeing to pay any and all outstanding indebtedness which has been incurred for and in behalf of the said school district, together with all bonds issued for the purpose of building school buildings or purchasing land therefor; and said board of Commissioners are hereby authorized to make any and all settlements with the said school board in regard to said property

or in regard to said indebtedness which may be necessary. The Board of Commissioners shall establish by ordinance, a schedule of fees for services to be performed by the city officials, agents and employes, and all such fees, when collected, shall be paid into the city treasury, and no part thereof be retained by the officials, agents or employes of the city.

42. Upon the taking effect of this charter by the approval thereof by the Governor of the State of Oklahoma, all the duties and powers conferred upon the Mayor in this charter shall be devolved upon and be performed by the present Mayor of the City of Tulsa, until the Mayor, as provided for in this charter, is elected and qualified; and all the duties and powers conferred upon the members of the Board of Commissioners under this charter, shall be performed by the present members of the City Council of the City of Tulsa, until the election of a Board of Commissioners as herein provided, except as hereinafter provided as follows:

That all the duties and powers conferred upon the City Auditor shall be conferred upon and be performed by the present city clerk of the City of Tulsa, and all the powers and duties conferred herein upon the City Auditor shall be performed by the city clerk until a City Auditor is elected and shall qualify as herein provided; and all of the duties and powers conferred upon the commissioner of finance and revenue shall be performed by the city collector and the city assessor, as the said offices are now filled in the City of Tulsa, until the Board of Commissioners are elected and shall qualify under this charter. Provied further, that all of the duties devolving upon the Commissioner of Police and Fire Department shall be performed by the Chief of Police, who shall have jurisdiction over the police department for the city, and by the chief of the fire department, who shall have jurisdiction over the fire department of the City of Tulsa until the Board of Commissioners are elected and qualified under this charter.

Provided, further, that the duties devolving upon the municipal judge under this charter shall be performed by the present police judge until the Board of Commissioners are elected and shall qualify as provided for in this charter, and until his successor is appointed and shall qualify, and provided that the present City Attorney of the City of Tulsa shall do and perform all the duties of the City Attorney under this charter, until a Board of Commissioners are elected and shall qualify, as provided herein, and until his successor shall be appointed and shall qualify; provided, further, that all other officers shall hold office until the election of a Board of Commissioners under this charter, and until their successors are elected or appointed and shall qualify.

CERTIFICATE.

We, the undersigned, being more than a majority of the Board of Freeholders, elected at a duly and legally called election, held in and for the City of Tulsa, on the fourth day of February, 1908, said election being called for the purpose of electing two freeholders from each ward in the City of Tulsa for the purpose of framing a charter for the City of Tulsa

to be submitted to the voters of the said City of Tulsa, do hereby certify that the within and foregoing is the original charter, adopted by us, to be submitted to the people of the City of Tulsa for approval, and that all interlineations therein contained, and all the erasures and words stricken out, were made and done before the same was signed by the President and Secretary of said Board of Freeholders and by the members thereof.

IN WITNESS WHEREOF, we have hereunto executed the foregoing charter in duplicate this 30th day of April, 1908.

JOHN B. MESERVE,
President and Member from Fourth Ward.

L. J. MARTIN,
Secretary and Member from Fourth Ward.

JOHN H. MYERS,
Member of the Board—First Ward.

JAMES H. THOMAS,
Member of the Board—First Ward.

ALFRED M. KRUG,
Member of the Board—Second Ward.

JAMES McCANN,
Member of the Board—Third Ward.

Filed with W. E. Rhode, Mayor of Tulsa, Oklahoma, May 2nd, 1908.
W. E. RHODE.

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